

SOME REMARKS CONCERNING THE GENERAL THEORY OF
HUMAN SOCIAL PRAXIS AND ITS RELATION TO
ETHICAL THEORY

by

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To

Joanna, my parents
and Uriel

Sozialismus ist das, was man unter dem Namen
Moral so lange vergebens gesucht hat.

E. Bloch

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PREFACE

One of the aims of philosophical inquiry at all times and in all places has been the discovery of a principle of unity behind the multiplicity of phenomena. The science of morals is no exception in this respect. For it, too, the main problem is to find a method that would empower it to discriminate between the accidental or relative and the necessary or universal features of human action. Such method, of course, ought to be able not only to identify universals but to show that those things identified as such are indeed what they appear to be. Essentially, this is what this dissertation is supposed to have accomplished.

The main thesis defended in the pages that you are about to read is that the distinctions mentioned above can be made only by examining the conditions of existence of human beings. Many times in the past philosophers have attempted to formulate these same distinctions by appealing to the characteristics of human nature. This I regard as a fundamentally correct move. It is the strategy of the Epicureans and that of some of the Stoics, for example. By differentiating between those things that have to be done and those that can be avoided or dispensed with, they hoped to encounter a firm basis for their notion of the moral good. In the process they introduced the notion of 'freedom' or 'liberty' that has

been so widely discussed throughout the history of Western moral philosophy. Actually, Aristotle, it seems to me, follows basically the same strategy in his inquiries into the nature of the moral good. His system is superior to that of the Stoics and Epicureans mostly because, contrary to what they do, he does not consider the needs of humans insofar as they are or are capable of being isolated individuals, but rather insofar as they are members of a community. In isolation men, Aristotle thinks, cannot live the good life. The subject matter of moral philosophy is, then, man as he exists in society. And this is precisely the starting point that I have chosen for this brief dissertation on the nature of morality.

Now, as is the case in Aristotle, the claim here is not the rather mild one that because as a matter of fact we do not know any men living in isolation, we cannot study morality by taking such a fiction as our starting point. The claim is the strong one that there are no such things as men, in the fullest sense of the word, that live or can live in isolation. If this is accepted, the first serious problem that moral philosophy has to face is the determination of the nature of humans living in society, since, ex hypothesis, they cannot be merely or purely biological entities. What humans are essentially, that is, in addition to their biological nature, constitutes the topic of study of the General Theory of Human Social Behavior. No aspect of human nature, nor a single one of the things related to human

existence can be understood independently of such a general theory. Obviously, I do not even pretend to develop that theory in this paper. All I have tried to do, and this constitutes the bulk of the first chapter, is outline its skeleton and present some of its basic elements. All this, only to the extent necessary to provide the adequate framework for a not less preliminary discussion of the nature of morality and of the processes of generation of real moral codes. Morality, I claim, is the single most important constitutive element of human social existence. It is on the basis of this assumption that I have tried to solve some of the traditional problems of moral philosophy.

But, lest I am dangerously misunderstood and accused of being excessively ambitious, let me exercise some prudence and state what I have not done in this paper. I hope that stating the limitations of my ambition in this Preface will help the reader see the limitations and the real scope of the discussions that follow.

The word 'morality' can assume numerous meanings in daily and philosophical speech, but four of these meanings are the most important. First, 'morality' is often used as synonymous of 'propriety' particularly in order to qualify the sexual habits of people. This sense is, clearly, derived and cannot constitute the only subject matter of moral philosophy. Secondly, 'morality' is used to refer to the set of rules and norms generally approved of by society, but not

necessarily codified. This is the way the word is used by many a philosopher, especially by those willing to distinguish sharply between law and morality. In a third, more interesting sense, 'moral' are those things that ought to be done because there is an overwhelming reason to do them. Such reason is normally taken to be overriding, that is, second to none. Furthermore, it is assumed that the moral duty, so understood, is so intimately related to the meaning or purpose of a person's life that failure to fulfill it results in complete loss of dignity and direction. When people speak of moral conflicts, this is the sense in which they are using the word 'moral.' In the past, when moral philosophy was a more serious enterprise, there existed among philosophers the widespread conviction that the touch-stone to measure the adequacy of an ethical system was its ability or inability to tell people what to do, when confronted with moral dilemmas. But in this time of scientific renunciation, a distinction is made between morals in this sense and ethics. Ethics is a theoretical discipline, the purpose of which is the antiseptic explication of the phenomenon of morality, i.e., of the nature of moral dilemmas, their causes and their logic or lack of it. Morality, conceived as ethics is not 'normative,' but 'descriptive' in character.

Also in this respect, this dissertation is not atypical and, to a considerable extent, it shares the sins and the weaknesses of the time. It too pretends to be a work in ethics, a description of the phenomenon of morality. It is,

nonetheless, different from other works in one important respect: it does not stem from the conviction that the line between the third and the fourth senses of 'morality' can be neatly drawn. In fact, one of the conclusions that can be derived from the speculations that follow is that, once an accurate account of morality has been produced, nothing is easier than indicating to people the general direction in which they ought to orient their action. But, what cannot immediately be deduced from our ethical theory is a piece of advice that could be useful to a person who finds himself in a particular predicament. In this regard, the task that has been undertaken here remains substantially unfinished, since no serious theory of morals is such, until it provides a means of guiding concrete human beings through the maze of dilemmas they have to meet in their daily lives. It is not only and not even mainly lack of time that has stopped me from trying to advance in this direction. The reason is simply that, at the present time, I do not have the faintest idea of how to go about looking for such criteria. Certainly, this is the major disappointment that I have experienced while working on this paper. I was sure at the beginning that it was enough to comprehend the nature of morality to be able to develop justifications, arguments and criteria which would help me pursue the good life. My expectations turned out to be unfounded. Concrete moral choices demand from us more knowledge than can be derived from our understanding of the nature of morality. In most cases, in order to know what to do here

and now in regard to a person, I have to perceive that person not merely as a person in general, but as a concrete individual to whom I am tied in a variety of manners.

The same is partly true when doctrines are the subjects of my moral dilemmas. Although, for the sake of honesty, I have to confess that I think that some support for certain traditional Anarchist theses can be derived from the GTHSP. In fact, more than once have I felt tempted to include as a subtitle of this dissertation a paraphrase of a title of one of Gorgias' works. Leaving Helen aside, this essay could be made to sound as a 'defense' and 'encomium' (encomion) of Anarchism for, at the very least, it proves that its claims concerning the artificial character of most rules, norms and laws are basically correct. But only when the most crucial moral question is answered in a definitive manner, the final argument in favor of Anarchism will have been produced. The GTHSP, as I have developed it here, does not provide that answer since, again, it simply presents the qualities of persons in general, without providing any ground to jump directly to the conclusion that all human beings should be regarded as persons. I am convinced, though, that this deficiency is due to a limitation of my faculties, and not to a major fault of the GTHSP.

Certain other problems, all less important than the one just mentioned, have not been dealt with either. Among them is the question regarding the nature of moral reasoning. There is a brief reference to it in the section on moral

obligation, but it is not at all exhaustive. By the problem of the nature of moral reasoning I mean not merely the psychological question of how it is that people learn to apply reason to the solution of moral dilemmas, but also the logical questions concerning such issues as the character of the nexus of moral judgements with one another, the nature of moral contradictions and the idea of coherent moral reasoning, etc. Although not essential, these questions are undoubtedly important enough to deserve a separate and extensive treatment.

More interesting are the issues involved in the discussion of the relation between moral virtues and emotions. St. Thomas concluded a long time ago that because man's moral activity must be performed with the help of the body, it must involve passions. God and the angels are alone capable of being passionless and good at the same time. No account of human morality is complete, which does not explicate the role of passion in human behavior. And in this respect too my account remains fundamentally incomplete, although some pertinent remarks, enough I hope for the purposes of this paper, can be found in the second chapter.

Finally, anyone reading the third chapter will quickly notice that it could profit from a more detailed treatment of the topics with which it is concerned. The study of the process of generation of real moral codes is clearly a must for all those attempting to understand human social behavior. It is therefore especially surprising that it has been neglected for so long. Presently, the only people somewhat

concerned with this type of study are some rather simplistic and narrowminded natural scientists who call themselves 'sociobiologists.' In the past anthropologists and other social scientists have occasionally given some thought to the problem. But philosophers have for the most part ignored it. I have felt obliged to include here a preliminary discussion of it, for it is only against the background of the elements and forces capable of determining moral ideas that controversies such as those surrounding the concepts of freedom, determinism, relativism, ideology, etc., can be put in an adequate perspective.

Apart from these more or less voluntary omissions there are, I am sure, many other involuntary ones. Those are the product of either ignorance, hurry or misunderstandings. But, to say it again, if in spite of all this there is something at least marginally valuable in the pages that you are going to read, it is the attempt to study morality in its natural setting, i.e., in the framework of human social life. The completion of that study requires considerable time, knowledge and ability. But I am absolutely convinced that any other road will inevitably lead to the same old speculative labyrinths, to the fruitless paradoxes and confusions that plague most of the contemporary reflection on morality.

I do not want to close these initial remarks without expressing my gratitude to the many persons to whom I owe what little I know. First of all I would like to thank my professors and fellow students in the Department of Philosophy of the

University of Kansas. Their unusual friendliness and congeniality have made my stay in Kansas a very pleasant and fruitful one. I am particularly indebted to Professor Richard Cole, whose writings, lectures and informal conversations have given me a rare opportunity to appreciate the operation of an original philosophical mind, and whose advice has always been enlightening and pertinent. I am no less indebted to Professors John Bricke and Richard DeGeorge, the other two members of my dissertation committee. Their advice and comments have allowed me to turn this paper into a much better product than it would otherwise have been. Professors Anthony Genova and Michael Young generously invested some of their valuable time in the different duties connected with the defense of a dissertation. And Joe VanZandt and my wife, Joanna, know how much I appreciate their patience, their admonishments and their love. Last but not least, I would also like to thank Sue Schumock who kindly agreed to type this paper.

CHAPTER I

MORALITY AND THE GENERAL THEORY OF HUMAN SOCIAL PRAXIS

1. Antecedents and Aim of the General Theory of Human Social Praxis (GTHSP)

a. Antecedents of the GTHSP

Respectful of the venerable philosophical tradition that has earned Aristotle the title of the first historian of philosophy, albeit the first biased historian of philosophy, I would like to start this preliminary part of the essay by engaging in a brief discussion of some of the philosophical doctrines concerning human nature and human social behavior that have helped shape the view of man characteristic of our time. Obviously, I have had to do some selecting. But this is not the main way in which my discussion imitates the Aristotelian pattern. Hopefully without excessive oversimplifications and distortions, I will be able to show that the history of modern Western thought reveals a dialectical striving towards something like the General Theory of Human Social Praxis which is sketched in later parts of this paper. The discussion, then, will have three purposes: a) presenting the state of the issue and the series of transitions that have led Western thought to where it is now, b) exhibiting the difficulties and limitations of each of the theories considered

and c) stating the problems confronting the GTHSP, most of which have been proposed or perceived, but not solved by current theories.

Although the attempt to understand man and human action has been an essential feature of Western Philosophy ever since its appearance, it is only in the Modern Age that we encounter questions that fundamentally resemble those we ask today. Since the Renaissance our concern is not only and not even mainly directed toward understanding the good qualities of humans, but also to the explication of their vilest passions. Nowadays, when we ask ourselves about human nature, it is mostly because we want to account for human baseness; we want to know why man can be a wolf to his fellow men. But we want to know also, how human societies can develop and endure in spite of all this baseness and idiocy. As has been seen for several centuries now, the purpose of law is, precisely, the establishment of principles that make communal living possible for creatures that are neither angels nor 'political animals' by nature. In the words of Vico:

Legislation considers man as he is, in order to turn him to good uses in human society; out of ferocity, avarice, and ambition, the three vices which run throughout the human race, it creates the military, merchant and governing classes, and thus the strength, riches, and wisdom of commonwealths. Out of these three great vices, which could certainly destroy all mankind on the face of the earth, it makes civil happiness.¹

Capitalism has taught the observers of the Modern Age not only that humans are basically isolated individuals, but also that the prosperity of their societies depends upon their

vices, and that the wise organization of these vices, as of their virtues, of course, is theirs exclusively. Indeed, this is, together with the conviction that knowledge can lead to the control of nature, the one thing that best characterizes the Modern Age. Again, Vico has something to say in this respect:

But in the night of thick darkness enveloping the earliest antiquity, so remote from ourselves, there shines the eternal and never failing light beyond all question: that the world of civil society has certainly been made by men, and that its principles are therefore to be found within the modifications of our own mind.²

As we shall see later, this is the same conviction that provides the basis for what Marx calls 'historical materialism.' But the problem is not only how, but also why beings that are not by nature social creatures, 'decide,' at a certain point, to constitute a society. Now it is easy to understand why the doctrine of the social contract is, so to say, the logical consequence of this particular way of conceiving the problem. There are only two ways of bringing together rational beings that are not united by nature: force or consent. Force, Rousseau says, cannot generate legitimacy, but only tyranny and slavery, only consent generates legitimacy and justice.

Actually, the whole point of the "philosophical fiction of the state of nature," as Hume wants to call it, is to show that men have to make an effort to become social or political beings, that is to say, social life is not simply given to them. In a way, of course, the same could be said to be true for Aristotle. The 'polis,' after all, is the result of a historical

process of sorts. But there is a major difference between Aristotle and the moderns. For the former a man is not such until he lives in a 'polis,' it is only as part of it that he actualizes his real nature. An isolated individual is a defective being. This is not the case of the moderns. The isolated individual is fully a human being even if he remains all his life in a glorious isolation. In a sense, it is only by accident that social life is important to him.

It is no wonder, therefore, to find in the early modern writers an urge to justify social life. Man, endowed with free will, could have chosen not to constitute a society, and thus remain in the 'state of nature.' But he is not only free; he is also rational and 'reason' shows him that social life is the best means for the satisfaction of his needs. In other words, the individual perceives some 'usefulness' or 'advantage' in the acceptance of the limitations imposed on him by social life. It is only once he has decided to live socially that the individual becomes aware of his own physical and emotional defectiveness. Note, though, that these lackings or defects are such not intrinsically, but only from the point of view of what is needed to live in society. So Hume, for example, attaches great importance to what he calls 'limited benevolence.' The fact that he claims some degree of 'benevolence' to be 'natural' or inherent to human nature is to be seen as an attempt to demonstrate that life in society is not totally alien to men. If it were, nothing but a Hobbesian account of the origin of society would be correct. A similar

argument has been explicitly formulated by some modern authors.

Most conspicuous is the case of G. J. Warnock:

If one of those things towards the amelioration of the human predicament which can be done are to be done in fact, then not only must people sometimes be made to do things which they are not just naturally disposed to do anyway; they must also sometimes voluntarily, without coercion, act otherwise than people are just naturally disposed to do. It is necessary that people should acquire what may be called 'good dispositions'--that is, some readiness on occasion voluntarily to do desirable things which not all human beings are just naturally disposed to do anyway, and similarly not to do damaging things.³

So, man can rationally manipulate things so as to constitute a civil society, and this demands to a certain extent the transformation of his own nature. Society is, strictly speaking, an 'artifact,' the result of an act of 'engineering,' to use the word that P. Berger⁴ has used in this connection. It is important to notice here that this 'instrumental reason,' as it has also been called⁵ operates very much restricted by the materials to which it applies its skills. Human reason, and for that matter human will, as human imagination can put together only those things that are given and that are not infinitely flexible. So the aim is not to eliminate evil, but to divert it and set it on a beneficial course. Not even God wants to annihilate it. His wisdom consists in the appropriate utilization of both moral and physical evil. The demythicizing force of capitalism is so strong that not even theologians, and much less social scientists can pretend to deny the pervasive presence of evil at all levels of reality. It is precisely the existence of immense obstacles that demands the achievement

of a high degree of technological excellence from the Demiurges of civil society.

Whether we buy or not the ideological cover in which this conception of man appeared historically, it is undoubtedly the one that better conforms to the world view of our age. The greatest dangers that confront us nowadays, as well as the most beautiful ideals, spring from it. But, most important for the purposes of this essay is the fact that this conception has been historically the key that opened the door for an attempt to achieve a systematic understanding of human nature and human social behavior. A science concerning a set of facts is possible only when all these facts are admitted, together with the forces that determine their behavior, into the realm of 'reality.' A science of society was incompatible with a theology that denied the 'substantiality' of evil forces and that postulated God as the ultimate cause of human social behavior. By 'reality' we have to understand in this particular context the realm of being postulated as directly accessible to human understanding, whether it be by reason or through the external or internal senses.

This assimilation has often taken the form of an extreme reductionism, partly to be accounted for in terms of the impact on the Western mind of the development of natural science. There are, of course, certain ideological elements involved in these reductionistic attempts, especially in the most recent ones. The condensation of all psychical processes into physiological ones or the emphasis on behavioristical approaches are not only

the result of innocent scientific speculations. They imply a denial of the specificity of human affairs and thus their reification in the strictest sense of the word. Turned into things, in this narrow sense, human affairs can be dealt with without remorse or qualms and the engineering mentality can give way to the mentality of the technobureaucrat. Social engineering can turn into mindless manipulation.

Here we are dealing with the main epistemological problem of social science. Once human affairs have been integrated into reality, the specificity of the human phenomenon needs to be determined. Such a task is previous to any discussion of method. It is the point of the Meno, our efforts to know must be preceded by a certain knowledge of the object towards which they are aimed. Traditionally, some property like rationality, or the faculty of speech has been singled out by philosophers as the essence of the human phenomenon. Marx was right in denouncing such an approach as counterproductive and insufficient.⁶ Feuerbach had postulated⁷ 'consciousness' as the essence of the human phenomenon and had utilized this postulate as the basis for his 'anthropology.' Religion was desacralized by considering it the result of a perverted act of self-consciousness. The mysteries of the divinity are uncovered by dissecting human consciousness. But this dissection does not go far enough for Marx, the most important step is missing: Feuerbach had accepted as given the ruptures he encountered in human consciousness. Consciousness having been

postulated as primary, it was impossible for him to go farther.

My guess is that any such attempt to abstract a quality and pronounce it the essence of the human is liable to the same type of criticism. The specificity of human affairs has nothing to do with their 'spiritual' character. The 'Geisteswissenschaften' should aim not only to the understanding of the conscious activity of humans, but to the understanding of the totality of the human enterprise. Certainly, the insistence on this fact has been the major contribution of Marx to the development of a science of man. The determination of the essence of the human by abstraction can lead only to a partial understanding of its true nature. This is why human science requires a 'holistic' approach. What is specific is the whole of the human phenomenon, not just one of its manifestations. The problem, once this has been realized, is to find a perspective from which the entirety of this phenomenon is visible. The perspective of 'traditional materialism' is inadequate for Marx precisely insofar as it persists in recognizing consciousness as the only source of specifically human action. This step is, of course, necessary for it implies the temporalization of one of the basic components of human activity, the one most needed for the development of science. After all, science is not possible unless the scientist has control over the instruments of knowledge. The proper perspective regards as part of a single whole the instruments of knowledge, those things that

support them and the object they are to capture. This perspective is reached when human activity is perceived as 'praxis,' as "sinnlich menschliche Tätigkeit."⁸

But before proceeding to explain Marx's notion of 'praxis,' let us consider the notion of 'holism' in more detailed a fashion. Recent discussions stemming mostly from K. Popper's attacks on the notion⁹ have failed to make some very basic distinctions. Popper's arguments can be seen as operating at two levels. On the one hand, there is the epistemological claim concerning the impossibility of 'grasping' the whole of social life with one single glance. This thesis has to be understood from the perspective of Popper's theory of scientific explanation, which, among other things, postulates 'prediction' as one of its basic components. Given that predictions concerning the future course of behavior of the whole of society are impossible, mostly because such predictions are subject to the "Oedipus Effect,"^{*} it follows that there can be no 'holistic' science of society. The second level at which Popper's thesis operates can be termed 'political' and it is essentially condensed in his advocacy of "piecemeal social engineering."

Popper assumes that there is a logical connection between these two levels. That is, given that it is impossible

* By "Oedipus Effect" Popper means the fact that in some cases the prediction of an event can itself become part of the causal series of which the predicted event is a part. So, for instance, the mere prediction of a collapse of the market can itself precipitate that collapse.

to understand society as a whole, one should not try to change society as a whole either, since, ex hypothesis, it is impossible to predict the outcome of such a process of change, once it has been set in motion. On the other hand, understanding well-defined, limited social units is possible and, hence, the change of such units is basically controllable.

This view seems false to me in many respects. Here I will consider only one of these. As has been observed many times, Popper's thesis depends on the assumption that the different institutions of society are not 'organically' interconnected, i.e., that they are relatively independent from each other. This means that change will, so to say, pull each of them in different directions, according to their particular functions, since there is no one function that they all perform in common. This means also that there is not a 'privileged' institution, one that determines the course of all the others, that sets the pace for all the others. This non-organic view of society takes the division of labor too seriously and assumes that because different people do different things in different places, at the same time, there is no underlying pattern to their behavior. If this were the case, we would have either to deny all purpose to the institutional behavior of humans or to find an internal and self-founded explanation for institutional behavior without ever going beyond the limits of any of the single institutions. In other words, we would never be able, unless we lie, to explain the functioning of one institution in

terms of some other institution or set of institutions. But this is clearly false, since most institutions justify themselves in terms of the needs imposed by the functioning of other institutions or at least in terms of the necessity to justify needs other than those generated by their own functioning.

Obviously, no society that has nothing but Parkinsonian institutions, i.e., institutions that meet no demands other than those generated by themselves, can survive. At least some of the institutions of a society have to be non-parasitical. And this is all a holistic approach to the study of society needs to postulate, namely the existence of a 'core' of human needs the satisfaction of which is the ultimate function of all the institutions of society and, thus, that this function is what gives them unity and a common purpose or goal. The 'essence' of human nature is determined by this core of needs; its form is what Marx called 'praxis,' the real activity of man. The crucial challenge for him was to find a way of approaching the study of the activity of man in such a way that the process by which the attempt to satisfy the core of basic needs permeates or informs all other activity in a society, imposing upon it a sort of basic unity, is illuminated.

Now, one thing at least is known from the outset, i.e., that this activity is productive and not contemplative, that it involves the manipulation and transformation of nature and not only the contemplation of it. This is why Marx rejects Classical Materialism, which is unable to overcome the dichotomy

subject/object in its crudest form and thus remains a prisoner of what Hegel called "sensible certainty."

Feuerbach, the only materialist philosopher that Marx discusses at length, adopted this standpoint, as the French Materialists and the British Empiricists had done before him:^{*} the knowing subject is separated by an abyss from the object, and the activity of the first in no way affects the substance of the second. The knowing subject is the isolated individual, and what he has essentially in common with other individuals, his essence, is a given and not something that results from his own activity, precisely because his activity is contemplative and not productive.

The limitations of this conception become particularly visible when it comes to explaining social behavior. Civil society is a construct, it is true, but one of an abstract character insofar as it is the result of the activity of abstract entities, i.e., isolated individuals. The secret of the matter is that Marx wants to regard the process of hominization and the construction of human society as identical. Marx does not want to allow for the existence of a 'human nature' other than the one resulting from the socialized activity of

^{*} It should be clear that the following criticism applies, mutatis mutandis, to Locke's political theory. For Locke too, the individual is the point of departure both in his epistemology and in his political theory. And, hence, he has no choice but to conceive the constitution of society as an act of the will, as a compromise. Such compromise does not aim at the alteration of the natural order of things, but at its preservation. Neither knowledge, nor proper political action must in any way alter or affect the course of nature.

individuals in each case when such an activity occurs. This is the key to his materialism. Marx is bothered by the fact that consciousness is postulated as existing prior to social activity. Consciousness is the result of the process of socialization, and so is language. The 'theory of the social contract' and the whole notion of 'civil society' are, therefore, nothing but fictions. These concepts imply an inversion of a causal relationship: it is 'praxis' that precedes consciousness and not the other way around.

For Marx, 'praxis' is, strictly speaking, the socialized labor of a set of individuals that reproduces both their physical existence and a certain social order.¹⁰ Praxis is the mover of history, but, on the other hand, it is the physical existence of individual men that constitutes the natural starting point of any attempt to explain human history:

The first condition for all human history is, of course, the existence of living human individuals. The first fact to be taken into account is, hence, the bodily organization of these individuals and their relationships to the rest of nature determined by it. Clearly, here we cannot discuss the physical composition of man, nor the conditions of nature that he finds, whether geological, orohydrographical, climatological, etc. All science of history must start from this natural basis and its modifications in the course of history by the action of man.¹¹

Thus the 'holistic' perspective conceives man as a living creature, with certain natural characteristics other than just consciousness, capable of transforming nature and entering into relations with his fellow men; relations that for Marx are basically productive. It is his ability to produce socially, which provides man with those things he

needs to ensure his survival, and it is the form of this productive activity, itself determined by circumstances that for the most part escape his control, which determines human nature in each case:

One can attempt to distinguish man from animal on the basis of consciousness, religion or whatever else one pleases. They (men) begin to differentiate themselves from animals as soon as they begin producing their means of life; something which is conditioned by their bodily organization. While men produce their means of life, they indirectly produce their material life as such.¹²

Social life, then, has its roots not in the will of individual men or in their benevolence, but rather it is, so to say, the natural place of humanity. The 'essence' of an individual human being is nothing besides that that appears through his socialized activity: "Wie die Individuen ihr Leben äussern, so sind sie."¹³

It seems that a helpful way of approaching the understanding of this position is by thinking of the similarities with some of the views of the modern Existentialists: man is what he makes himself to be. The being of man as man depends totally on his incessant activity. It is in this sense that man can be said to reproduce or recreate his existence. The material conditions for the human existence of man are not given in nature, they have to be generated, they have to be extorted from it. And this is what distinguishes man from the other animals, which have a proper and predetermined place in nature. To subsist man has to rely on his own activity, but his activity is reliable only insofar as it is 'physical'

activity, only insofar as it is productive, i.e., capable of transforming nature and forcing it to yield what is required for the satisfaction of his needs.

With this, and for the first time, the ground was set for the development of a general theory of social praxis. But Marx did not draw all the consequences that it is possible to draw from his postulates. His main interest being the elucidation of the phenomenon of capitalism, he allowed his concept of production to shrink to the point that it became synonymous with the narrower notion of 'production' in the sense of economic production, of production of goods.

It is most interesting to pay attention to a sentence that Marx wanted to eliminate from the manuscript of the "German Ideology" and that has been preserved in the edition we have been using:

Those conditions (both the physical characteristics of man and the material conditions enumerated in the passage quoted above) determine not only the original, natural organization of man, namely the racial differences, but also their whole development or lack of development all the way to the present.¹⁴

The exhibition of the reasons that Marx had to delete this sentence, should provide us also with an understanding of the limitations of 'Historical Materialism.' Because Marx chose to eliminate this sentence, Historical Materialism failed to become a 'general theory of human social behavior.'

The elucidation of the structure of a society is important for Marx only insofar as it can lead to the understanding of the operation of the forces capable of changing that society.

Human social action never flows into a dead-end, it never concludes in a stable set of relationships. On the contrary, it constantly renews its own support, it is by necessity revolutionary: This production appears first with the growth of the population. It imposes a new relationship among individuals. The form of this relationship is again conditioned by production. But, what about the 'original set of relationships' among the individuals? Is anything left of them after a few of these changes that succeed each other have taken place? This is the question that Marx was unable or unwilling to face. Abstracting the general form of a relationship from its actual, determinate manifestation was for him an illegitimate epistemological move. Hence his criticism of the method adopted by the classical economists. For instance, speaking of 'production' in general, without taking into account its specific determination in a certain period of time, is in no way more scientific than describing the adventures of Robinson Crusoe. Such general categories are of very limited significance for economic science. Devoid of its determinations, they are empty totalities. The task of economic science is, precisely, the reconstruction of these categories starting from the simplest of its determinations. Thus, the study of capitalist production does not begin with a series of speculations concerning the nature of production in general, but rather with the study of the category of "commodity."¹⁵

Human nature, then, is not unique, it does not have one single way of manifesting itself. Human nature, like

production, is the set of its appearances throughout history. A science attempting to study it must assume the form of a phenomenology of human nature. Whatever human nature was at the beginning has been negated, assimilated and transformed beyond recognition. Capitalism, which in a sense embodies all previous forms of social organization, is to the set of original human relationships what the Absolute Spirit is to 'sensible certainty.'

No wonder then that the sentence had to be eliminated. After history starts running, it is quite unimportant whether the 'bodily organization' of man has remained the same or not. Even if that is the case, nothing else is the same, the whole environment has been remodeled by human activity and the relationships that can be established must be completely different. Only in the most abstract sense, according to Marx, can one say that human needs are the same. Besides, mere physical subsistence, that is, the bare satisfaction of the most elementary of human needs, is far from being a sign of humanity. The understanding of this fact is one of the main pillars of the theory of Alienated Labor.

Capitalism has trapped the worker in the unending circle of alienated labor. This is the main requirement for its subsistence as a system. The worker is deprived of his true humanity and reduced to the twofold condition of worker simpliciter and 'physical subject' simpliciter: The peak of this servitude is reached when the worker can survive as worker

only qua physical subject, and when he can only remain a worker insofar as he is a physical subject.¹⁶ Actually, an accurate way of describing this process is by calling it the process of 'animalization' of the worker:

It boils down to this, that man (the worker) feels himself to be free only in the exercise of his animal functions of eating, drinking, reproducing, . . . and that he feels like an animal while engaged in his human functions. The animal becomes human, the human animal.

Eating, drinking and reproducing, etc., are certainly also genuine human functions. In abstraction, though, separated from the rest of the circle of human action and turned into its last and only goal, they are animal.¹⁷

So, as an end in themselves, those activities that immediately follow from the peculiar bodily organization of man, are sub-human. They are human only insofar as they are integrated with the whole of human activity as historically determined. Alienation is a regressive process that consists basically in the abstraction of the most elementary of human (?) functions from the totality of real human functions, and thus it would be improper to utilize them to characterize this totality.

The deleted sentence implies the existence of a set of human characteristics that, basically unaffected by the course of history, exercise a permanent, unique influence on human social behavior. And that, as we have seen, is an assumption that directly contradicts the central postulates of Historical Materialism.

But there is something else to be considered in this respect: the Marxian notion of reality. The conception of reality of Classical Materialism is an absurd abstraction,

according to Marx, precisely because it fits too well the Fichtean definition of Materialism as the attempt to account for reality excluding the principles that make reference to the influence of a spontaneous subject. The efforts to isolate the subject led Classical Materialism to the production of an abstract concept of consciousness that can only relate passively to the object. It is clear, though, why having accepted the Fichtean prejudices and thus having limited all really productive human activity to conscious activity, Classical Materialists had to opt for the exclusion of the subject as a productive force of reality. For Marx the problem can be solved only by reformulating it in a way that would soften the rigidity of the Fichtean dilemma. The clue to this is the definition of human activity as physically productive activity, that is, as an activity capable of transforming the physical world, By operating as an effective changing force on the given 'natural conditions' human praxis produces and alters not only the social world, but also the 'natural world': it is, as is fundamental productive and integrative force, the first principle for the explication of reality, given that only it can allow the perception of all its determinations.*

* In this respect, I have to agree with such modern writers as G. Lukaçs (see his Geschichte und Klassenbewusstsein (Berlin, Luchterhand Verlag, 1968) and K. Kosik (see his Dialectics of the Concrete) that emphasize the importance of the category of 'totality' for Marx. Both his theory of alienation and his theory of ideology are understandable only in the light of this notion and, specifically, with the help of the dichotomy totality/abstraction. Alienation is the result of abstraction in the realm of productive activity; ideology is

So, because even the initial natural conditions encountered by primitive man have been altered by human praxis, it would be a mistake to pretend, as was being done implicitly in the deleted sentence, that they could constitute the basis for a deduction of the universal properties of human nature.¹⁸

Marxism, taken to its ultimate consequences, leads to a subtle sort of relativism. At the end all one can say in general about human societies is that they are in constant change. It is not surprising at all that, when attempting to formulate the laws of dialectics, Engels ended up proposing three, notorious mostly for their unlimited generality and vagueness, as well as for their 'formal' character. No wonder either, that he thought them applicable far beyond the realm of history, in the realms of nature and mathematics. Engel's laws of dialectics do not have anything to do with the specificity of the human phenomenon: therein lies their uselessness.

But let us analyze briefly the consequences that, as I claimed before, Marx did not draw from his assumptions. He had established what he took to be the moving force of human history: the necessity that humans have to reproduce, socially, their own existence and the circumstances for it. It is because they need to produce, that humans establish among themselves

the consequence of a parcial or abstract perception of reality: it is abstraction in the realm of knowledge. Even the analytical/synthetic method proposed by Marx for economic science makes sense only if understood as a means to achieve the intellectual reconstruction of a totality through the integration of all its determinations.

a series of relationships. It would seem then, that these relationships, directly derived from the demands of production, are primary. In a sense, this is indeed true, as we shall see. And certainly, if our task were simply to suggest a hypothesis concerning the 'origin' of society, the need to produce material goods socially would be quite appropriate a candidate. But the task of a general theory of human social behavior goes beyond this type of speculation, for the most fundamental question it has to answer is not, "why do humans form a society?" but rather the question "how can humans form a society?" Insofar as Marx concerns himself with the first question, he remains in the theoretical framework of the philosophers of the social contract. Hume, Locke and Rousseau also wondered about the reasons that prompt men to form societies, only to offer, as we have seen, a utilitarian answer to their questions. Marx is clearly a step beyond that, since he adopts a holistic approach. But he is not far enough, since at the end he has only substituted individualist utilitarianism by social utilitarianism.

It is this original sin, so to speak, that prevents him from recognizing the how-question as primary and, hence, condemns him to a relatively strict determinism. Having identified the production of material goods and services as the nucleus of social praxis, Marx wants to explain all behavior in function of that nucleus. Thus, he can no longer recognize any other element as an independent and parallel fundamental

determinant of behavior. Everything has to be explainable and explained in terms of the origin, of the first principle.

This is why the reference to demands generated by the bodily organization of man appeared dispensable to Marx. If at all, such reference has only a heuristical value. It serves to get things started, since it gives plausibility to the utilitarian claim that there is a need to produce. After all it is the bodily organization of man which posits the necessity to produce material goods. But what Marx failed to see was that this same bodily organization posits another, equally ineluctable necessity, namely the necessity to take its own capacities and limitations into account as the condition for any possible organization of men into a community. In other words, blinded by the way he approached the issue from the traditional perspective, Marx did not recognize the existence of two distinct levels in regard to the explanation of the formation of human societies. For if it is true that the organization of man has to be such that, in each case, it has to adapt to the particular circumstances imposed by nature, i.e., to sets of external circumstances, it is equally true and, as a matter of fact, more important, that any organization of men has to meet the internal requirements posited by the nature of man qua physical entity. That is, it is indispensable to realize not only that nature has to be satisfied, but that certain of the properties that men have, and some of those that they lack, limit the kinds of relations they can establish

among themselves. The how-question seeks to uncover this condition, and, in this sense, is primary and irreducible.

Once this has been realized, the purpose of referring to the characteristics of human nature in the framework of the theory of human praxis becomes clear. Such reference is not intended to furnish explanations as to the 'reasons' for the development of human societies. In fact, nothing in the theory of human praxis will change if the 'pursuit of happiness' or some other such reason is proposed as an explanation for the establishment of societies, instead of the Marxist hypothesis. The examination of the relevant characters of human nature aims at the elucidation of the conditions that make the organization of societies possible.

Let us consider the following case in order to clarify this point. Assume that we have a set A of five individuals a, b, c, d, e. These individuals are to live together and, to do so, they have to establish among themselves certain kinds of relationships. Among other things, these relationships should enable them to produce enough food so that all of them can satisfy their hunger. Let us assume, further, that the land they have chosen to live in is poor and can yield only the equivalent to seven indivisible food units a day, so that only two out of the five individuals can eat twice a day, providing, of course, that they feel that all have certain right to eat. Because of different circumstances, something like a class division develops and it turns out that a and b

are the ones that, in exchange for an equal amount of daily work, will get two food-units instead of one. This would be the 'concrete' form of organization adopted by our five individuals, a form of organization forced upon them by a combination of their physical characteristics (they all have to eat), the external conditions (only seven potatoes can be produced), and, to put it somehow, tradition (a and b get two food-units because they are 'older').

In a very important sense, this would be, for Marx, all there is to say concerning our imaginary society. But what is missing here is reference to the need to meet the requirements of the physical component of human beings mentioned above. To say that these five individuals have established some sort of social organization, no matter how it is, is to affirm implicitly that they are capable of doing so, that is, they they are such that they can relate to each other, that they can communicate, that they are, to a certain extent, flexible and, most importantly, that they can establish and adhere to norms that regulate their conduct. In other words, when Marx noticed correctly that what is characteristic of the human species is that its members have to produce and reproduce by themselves the conditions for their existence, including the organization that enables them to operate socially, he put the emphasis on the wrong term. What is basic is not so much the necessity to organize in order to produce, but, first of all, the necessity to organize simpliciter, i.e., to bring together

individuals with certain types of characteristics, which characteristics posit demands as absolute as those presented by the external environment. Meeting these demands requires the production or generation of norms, of principles of conduct capable of regulating the relations among individuals so as to ensure that they will be able to survive both as individuals and as members of a community. So, the norms are not a structure superimposed on the 'material basis,' but rather its precondition. That human beings require to submit their behavior to norms in order to live together, is their basic property. It derives from the fact that humans are relational entities of a certain sort and, hence, this property is preserved regardless of the form or structure of their actual relations. These, on the other hand, are primarily determined by their biological structure, a fact that, although Marx notices en passant, is not as trivial as he thought it was. Our five imaginary individuals can arrange to distribute their food-units as they please, but there is one thing beyond their wishes: the fact that their survival as individuals demands some sort of distribution. To put it in a different way, their survival as physical entities is not simply a phenomenon that pertains to the domain of the subhuman; it is rather a precondition for human existence, for any and all varieties of it. And this is, it seems to me, where Marx erred by failing to see that the satisfaction of what he calls "the animal necessities" in a social setting, requires at least the partial hominization of man. Although he does not live just as or, even, in virtue of

being a physical entity, the bourgeois has to be a physical entity first, before he is anything else. Genet's image of the colonialist who stuffs himself with pillows to meet the requirements of his function, comes handy in this context. For Marx, one can most properly predicate 'reality' of the form of satisfaction of a need, rather than of the need itself abstractly considered. Maybe this is correct. What is not correct, in any case, is to overlook the function of the abstract need as a primary and permanent determinant or condition of human action. In relating to the proletarian as a bourgeois, the capitalist relates to him also, at the same time, as a physical entity. It is quite significant that in most societies there is a conscious effort to hide this fact. Usually this is one of the main functions of ideology. No wonder, then, that for certain people the most insulting feature of one of Genet's plays is the assertion that everybody has to defecate. After all, kings and popes are the ones that need privacy the most.

So, when one seeks to explain the process of generation of human societies, one has to mention not only the need to transform nature and adapt to its demands, but also, and, perhaps more importantly, the need to adapt to the basic properties of humans as physical entities, these properties being the most permanent features of human nature. Marx had set the study of man on the proper course by establishing that the starting point of such a study must be his activity as a physical entity. But by overemphasizing the importance of the impact

of that activity on nature, he failed to estimate properly the conditions of that activity, i.e., its impact on other human beings, their needs and their capacities.

The anthropological school known as 'Functionalism,' at least as developed by B. Malinowski,^{*} can be said to go a step further than Marxism in this respect. For the science of man, according to the Polish scholar, must be grounded on a "theory of culture." Where 'culture' is defined as "the artificial environment" created by man to deal with the demands of his own nature and of nature as a whole. Such a theory finds its starting point in the living individual:

In the first place, it is clear that the satisfaction of the organic or basic needs of man and of the race is a minimum set of conditions imposed on each culture. The problems set by man's nutritive, reproductive, and hygienic needs must be solved. They are solved by the construction of a new, secondary, or artificial environment. This environment, which is neither more nor less than culture itself, has to be permanently reproduced, maintained, and managed.¹⁹

So, the first set of determinants of human culture are those biological qualities that humans share with other animal species. At the end, in Malinowski's view, everything depends on them. But a second set of determinants results from the necessity to 'reproduce' the artificial environment; among these are the acquisition and preservation of technical knowledge, its transmission from generation to generation, the development of rules, etc.

^{*}In order to avoid the discussion of the endless disputes concerning the term 'Functionalism,' I will use it only to refer to Malinowski's theories.

Malinowski is well aware of the fact that the starting point he has chosen for the explanation of social life is basically the same chosen by Marx. But he tries to clarify what he takes to be substantial differences in their approaches. The burden of his explication rests on the key concepts of 'charter' and 'function.' By 'charter' is understood "the system of values for the pursuit of which human beings organize, or enter organizations already existing."²⁰ These organizations are called 'institutions.' An institution requires a 'personnel,' that is a group of individuals that "stand in definite relation to one another and to a specific physical part of their environment."²¹ It also requires a 'material apparatus' that has to be operated by the personnel and a set of rules or norms. All the institutions of a society have a function, that is, they pursue the "'satisfaction' of a human need, basic or derived."

Now, in Malinowski's opinion, Marx, in trying to stress the importance of the 'system of production and property' as the main determinant of social organization, forgets:

. . . first the concept of charter, by which we find that any system of production depends upon the knowledge, the standard of living defined by the whole range of cultural factors, and the system of law and political power; second, the concept of function, by which we see that distribution and consumption are as much dependent upon the total character of a culture as on the productive organization itself.²²

The first part of this criticism is certainly well taken, but it is rather difficult to see why Marx would disagree with the assertion that the patterns of distribution and consumption are "dependent upon the total character of a culture."

The patterns of distribution in a given society are set, primarily, by the relations of property. The rights of property over the means of production include the right to appropriate the totality of the goods produced by its operation. Now, what the owner of the means of production seeks is not the brute accumulation of goods or merchandise (this, Marx points out, is only the appearance, and it is the duty of science to go beyond the appearances), what the owner wants is the accumulation of wealth, that is, of capital. His goods are a source of wealth only insofar as they have an exchange value. But they, on the other hand, have exchange value only if, at the same time, they have use value, either absolutely or in a given society. In other words, all contractual agreements for the exchange of goods entered upon by the individuals of a society are, in the end, determined by the use value of these goods, which use value comes from the quality a given good has to satisfy either a basic or a culturally determined human mind. It would seem then, that, according to Marx, one can properly affirm that the patterns of consumption are determined by the "total character of a culture." After all, as we have seen above, Marx hardly acknowledges the existence of anything but derived needs.²³

The first of Malinowski's points seeks to stress the fact that social organization is simultaneously determined by a series of independent factors. The central notion here is, obviously, that of 'independence.' The biological characteristics that define human nature and that operate as the

central determinants of culture, can be said to be independent in two senses. In the first place, they are independent from one another and the need to satisfy each of them imposes different kinds of constraints and demands on culture, so that, even if only one institution is generated to meet them, it would have to perform a plurality of functions. But it is the case that in all known societies there is more than one institution, although sometimes institutions overlap in relation to the roles they play. In the second place, biological characteristics are independent from historical development. That is, they impose basically the same constraints to all cultures, regardless of their degree of complexity or development.²⁴

The permanent set of these properties defines 'Human Nature.' It would be a mistake, nevertheless, to accuse Malinowski of completely ignoring the effects of culture and social phenomena in general on the biologically determined needs of human beings, as has often been done. As a matter of fact, the word 'needs,' that he prefers to use instead of the word 'motives,' more popular among psychologists, is supposed to stress precisely this point²⁵ by indicating that needs do never appear raw, but always within a distinct cultural setting. The point here is, simply, that the basic biological needs operate always as determinants of culture; they can be satisfied in different ways and to different degrees in various societies, but their satisfaction is an unavoidable imperative.

A serious criticism of Malinowski must point at his inability to evaluate the real significance of the basic

biological needs for social life. As has correctly been suggested by Radcliff-Brown,²⁶ and as he himself notes repeatedly, the kernel of his thesis is that all institutions in a society are ultimately determined by biological needs. The best image to illustrate this claim is, perhaps, an inverted pyramid, every part of it, no matter how remote from the vertex, is connected with it. This assumption is on the background of Malinowski's rejection of 'diffusionism' and his denial of the existence of 'survivals' or 'borrowed' traits in any society. In this respect, Levi-Strauss' criticism is at least partly adequate:

How to analyze modern habits without recognizing vestiges of former ones? To reason otherwise is denying oneself all means of making an essential distinction: that between primary function, responding to a present need of the human organism, and secondary function, that maintains itself only in virtue of the resistance of the group to give up a habit. For saying that a society functions is a truism; but saying that everything in a society functions is an absurdity.²⁷

But in one important respect Levi-Strauss' criticism misses the point.

Here we are not interested in studying the existence of useless 'survivals' or 'remnants' in a given society. But even if it is the case that such entities exist, they cannot be said to constitute the set of 'secondary functions' of a society. The distinction between primary and secondary functions is, indeed, essential, but Levi-Strauss is wrong in suggesting that the basis for formulating it rests on the distinction between functionally required and useless traits. In the

first place, the notion of functionally necessary or required traits is extremely vague. The biologically determined traits of culture that intrigue Malinowski are necessary in a strong sense, that is, they are conceived as preconditions for the existence of any society deserving that name. But it is clear that certain cultural traits can be said to be necessary only in respect to a given society. The fact that they are necessary in this weaker sense does not make them less functional nevertheless. As we will see, this dichotomy constitutes the basis for the distinction between primary and secondary functions.

Some writers have chosen the name 'functional prerequisites' to refer to those things that, like Malinowski's primary needs, demand the generation of functionally necessary institutions in a society:

Functional prerequisites (of a society) refer broadly to the things that must get done in a society if it is to continue as a going concern, i.e., the generalized conditions necessary for the maintenance of the system concerned.²⁸

It is assumed, on this account, that if those prerequisites were not fulfilled, certain disorders would result that are incompatible with the existence of a social order. Only in part are these disorders directly related to the bio-psychological constitution of humans. Generalized 'apathy,' for instance, would be, according to the authors of the paper, a condition "capable of terminating the existence of society."

This approach is one step ahead of Malinowski's in that it is not solely concerned with the conditions of social life

derived from the bio-psychological characteristics of man, but also with the conditions of society as such, that is, of human society as a sui generis and veritable system. T. Parsons²⁹ has made of this point the basis for his criticism of Malinowski, claiming that he was unable to perceive man in his social setting as something more than a mere biological entity, that is, as possessor of a 'personality.' The perspective advocated by Parsons has been adopted by many psychologists interested in the theory of motivation.³⁰

The greatest merit of Parson's approach is that it attempts the study of human behavior at the different levels in which it occurs, trying to uncover the patterns of motivation of both individuals and institutions and the mechanisms of integration that give coherence to social action. This leads him not only to propose a set of 'prerequisites of social systems,' but, most importantly, to propose a classification of the types of institutions of human societies in terms of the functions they perform, and their role in the integration of the different kinds of interests, beliefs, goals and cultural patterns of a society. Although we cannot go into details at this point, I would like to stress one advantage of Parson's theory over that of Malinowski. By postulating that collectivities as such are also 'actors' of social life, Parson avoids the extreme biological reductionism of Malinowski's system, which does not permit the understanding of the complex personality of the individual as a social agent. For, insofar

as he is indeed a social agent, the individual's behavior is not exclusively determined by his biological needs, but, mostly by his needs as a person, conceived as a possessor of interests and values, and acting in the framework of a definite cultural tradition.

It is because of this that I have chosen Parson's theory to close this brief review of the historical development of the theory of social behavior.* With Parsons this theory has encountered its real subject matter: the study of persons. In what follows, we will see that it is necessary to go one more step further in order to uncover the true nature of these entities and their process of constitution.

Independently from the direction in which much of the psychological and sociological research on these issues has developed, it is clear that it is based on a valuable and profound institution: a theory of human social behavior must not forget that the subjects it studies are, *prima facie*, persons and not pure biological entities. As a matter of fact, it is only as a result of a process of abstraction that persons come to be perceived as biological entities. As persons, human beings are subjected to pressures resulting from the particular nature of the social body, such as the necessity to cooperate

* If we wanted to make our review more complete, we would have to discuss the relevant works of P. Berger and A. Schutz. But although in these works we can find many interesting suggestions concerning the relation between subject and object, and the processes of constitution of social objectivity in general, they do not propose a complete turn in perspective. Basically, the object of study of both authors is the same as that of Parson's: the social person.

in certain ways, or to establish a hierarchy of rules primarily determined by the division of labor, etc. So, not only the biological nature of man, but also, to use Durkheim's popular term, 'social solidarity' as such, can put demands and define patterns for the behavior of human beings.

b. The Purpose of the General Theory of Human Social Praxis

The fact that our brief history of social theory has almost exclusively made reference to the works of social scientists is no accident and, as I see it, reflects the rather pitiful state in which philosophical anthropology finds itself. Imprisoned in the realms of abstraction and ideology, most of the recent philosophical speculation concerning the nature of man has been unable to perceive it as a totality. As a result, philosophical theorizing concentrates on abstractions, and becomes more concerned about the movements of fingers, than about the behavior of persons; more preoccupied by the operations of the 'mind,' than by the actual thinking of socialized individuals. Such a tendency can only be harmful, especially when it comes to dealing with the major problems of morality and the philosophy of law. The attempts to remedy this have been many. In the first half of the century, several moral philosophers became aware of the need to take into account and, when possible, make use of the discoveries of anthropological research. No doubt a laudable enterprise, for nothing is more alien to philosophy than artificial specialization. Psychoanalysis has

also been an important source for philosophical speculation. But there is one major fault shared by all these attempts, as well as by most research done in the social sciences themselves: they are not based on a general understanding of human social behavior or, to say it differently, they are not grounded on a general theory of social praxis.

The aim of a general theory of human social praxis (GTHSP) must be to provide an understanding of the principal mechanisms underlying human social behavior, of the forces that determine it, and of the conditions that make it possible. Taking as its starting point the specificity of the human phenomenon, the GTHSP must provide a clear distinction between those things that are essential to human social behavior, and thus necessary, and those things that are accidental. No part or aspect of the human phenomenon can be understood independently from the GTHSP. The reason is simple: human existence, as we know it, appears exclusively in the framework of a social order, that is, the concreteness of the human phenomenon is perceived only in its socialized manifestation. The presumption that this is an accident, is nothing more than a presumption and has, at most, ideological significance, as will become clear as we proceed. Now, the claim here is not merely that as a matter of fact individual human beings establish social relations among themselves. The claim is much stronger: there can be no such things as human beings leading a non-socialized existence. There could be indeed biological entities

resembling human beings living in isolation, but their appearance and their biological characteristics would not suffice to turn them into human beings, for, although the psychobiological constitution of humans is one of the main determinants of their way of existence, it is not what defines human existence as such. No enumeration of psycho-biological properties can ever define human nature. Diogenes' plucked rooster is quite enough to take care of all attempts to do so.

Equally useless are the innumerable definitions of human nature that single out one characteristic as its distinctive feature. In isolation, man is neither a political animal, nor a rational, speaking or producing animal. Although it is only fair to concede that the Aristotelian definition is the one that comes closest to the truth, in an important sense bees and ants can also be said to be social animals. As to the other definitions, the one respect in which all fail is in assuming the existence of certain properties independently of the substance of which they are the properties. So, claiming that man is a rational animal, presupposes the existence of something that can be called 'reason' prior to the socialized existence of any individual member of the species. The error is even worse when not reason, but language is taken to be the specific difference defining man, unless, of course, language is identified, as Wittgenstein can be thought of doing, with social behavior. But in this case, clearly, it is social behavior of a definite sort, i.e., social behavior involving

symbolic representation, which defines humanness, and this is precisely what we want to claim. No matter how many languages a monkey can master or how many equations he can solve, he would still remain a monkey and, for that matter, so would homo sapiens unless they were incorporated into a society. A thinking monkey is no more possible than a square-circle, for either he has been incorporated into a human society, and thus is a person and not a monkey or he remains in isolation and, hence, is no more a man than a plucked rooster. Only the determinate totality that confronts us when we observe a human society deserves the name of 'human.' The first elementary truth in this respect is, therefore, that everything human is social. But for the reasons that were pointed out before, it should be apparent that this is not enough. The specificity of the human phenomenon can be determined only by determining the specificity of human social existence.

Durkheim noticed that the one thing that enables us to locate and identify a social fact is the constraint it exercises on the behavior of a group of individuals. It might be argued, not without some reason, that the positivist-minded French sociologist had some sort of vested interest in selecting this, an observable feature, as the criterion to identify social facts. But, whatever his motive might have been in doing what he did, Durkheim showed a profound understanding of the real nature of social facts: that they are juridical. For all action that deserves the name of human is normed or regulated and, hence, juridical. There simply is nothing social

that is not juridical, so that, in a very strict sense, one can say that the human phenomenon is juridical in nature and that all social science is jurisprudence. The actually regulated behavior of individuals exhausts all the ontological consistency of human facts. This is precisely why an isolated entity can never be termed human.

The word 'juridical' is used here in the sense insinuated above, to wit, to refer to the condition of human actors in a social setting. The behavior of such socialized humans is regulated by norms stemming or deriving from certain characteristics of human nature, relevant to the establishment of relations of cooperation between humans. In this sense, the notion of 'juridical' can be contrasted with the notion of 'organic.' The organs of an organism constitute an 'organic' whole insofar as the structure of each of these organs and the functions generated and informed by them are, so to say, pre-conceived or predetermined to hook to each other. The functional harmony among all the organs of an organism is innate or natural, and does not need to be imposed by a legislative act of some sort. Insofar as the correspondence among organs is built in into each of them, so that it is valid to claim that they are programmed to do certain things in relation to each other, it makes no sense to say that their relations are 'juridical.' A relation between two or more objects can meaningfully be said to be juridical only when there are alternatives to it, i.e., when the behavior of the entities

in question has been regulated or legislated to follow a certain path at the expense of certain other possible paths. It is true that the biological constitution of humans puts some demands that have to be met in order to establish a society. But there is not a single function of the human body that, given the proper circumstances, cannot be performed in isolation. Certain cynics have claimed that the penis is the clearest symbol of man's social nature, for it is obviously meant as a means to relate to other organisms. But even if we grant this claim, it does not follow from that that a social relation has to be established between two human individuals in order to put the penis to its proper use, since, from a purely biological standpoint, the indiscriminate rape of males and females would be more than enough to do the trick. Human social life is not a natural entity, but one that has to be created through juridical mechanisms, through regulation and legislation of the behavioral alternatives allowed by human nature. Those juridical mechanisms are what in the proper sense can be called 'norms.'

But what is, seen in this light, the task of the GTHSP? Are all laws or norms to be considered part of its realm of studies? Certainly not. Pretending such a thing would be no less mistaken than taking the words 'law' or 'norm,' as used in this context, to mean 'positive law.' Insofar as it purports to be a 'general' theory, the GTHSP can concern itself only with those features of human social life that are common

to all societies without exception. Now, at this stage, an important distinction must be introduced. A property can be shared by different things either accidentally or necessarily. A property is said to be accidentally shared by a group of things, when, in at least one case, it cannot be considered to be part of the set of properties that define the thing as what it is. A property is necessarily present in a group of things, on the other hand, if and only if, in each case none of the things could continue being what they are were the property removed. That is, the GTHSP is exclusively preoccupied with the study of those norms whose absence would make human social life impossible. In other words, the GTHSP is only interested in determining the collection of norms that set the conditions of possibility of human social life.

Several things follow from what has been said so far. In the first place, if it is true that there are norms that regulate human social conduct so as to fulfill the conditions of possibility of social life, then these norms must be universal and necessary, and its discovery cannot be achieved by simple induction. That is to say, the GTHSP must possess a method similar to what Kant called transcendental deduction. That the conditions of possibility can and are in fact systematically apprehended in a non-rhapsodic fashion is evident. The proof is the existence of human societies. This does not mean, nevertheless, that the GTHSP has to apply the same method of apprehension, whatever it might be, available to all

human beings. The GTHSP must provide itself with a theoretical or contemplative method, as opposed to this other practical method. In fact, the precise description of the practical method is an empirical question that belongs to the realm of social-psychology.

The fact that human societies do exist proves another important point, to wit, that no special sophistication is required for the apprehension of the conditions of possibility of social life and the human characteristics that determine them. To realize this is fairly significant, particularly nowadays that there is a tendency among certain philosophers and scientists to think that the development of a comprehensive science of man must be preceded by the extensive development of various specialized sciences such as biology, bio-chemistry, ecology, psychology, sociology, anthropology, etc. Claiming this is failing to understand what a GTHSP is supposed to be and what the proper role is that corresponds to it in the body of knowledge. There can be no human or social science that is not intrinsically and fundamentally defective without a GTHSP. It is not an accident that social scientists find it eventually necessary to speculate about human nature and human society in general. When they do so, it is because they are perceiving the limitations inherent to their disciplines. This does not mean that everything social scientists can say is false. Such a presumption would be plain stupid. What no isolated, specialized discipline can provide is a full, comprehensive understanding of the human phenomenon.

Let us call basic or fundamental norms those norms that express the conditions of possibility of social life. About them there is one more thing that we know a priori, i.e., that they constitute a finite set. Inherent in the notion of 'conditions of possibility' of factually existing entities is the quality of finitude. Those things that make the factual existence of some entity possible must themselves be susceptible of being materialized. In the case that concerns us this is proven by the existence of numerous human societies.*

So, concerning the conditions of possibility of social life with whose study the GTHSP is commended, we know that they are immediately accessible, knowable, universal and necessary and numerically finite.

But here it would be wise to pause and make explicit something that should be clear from the context. When we speak of conditions of possibility of social life, what we mean is conditions of possibility of human social life. Keeping in mind this restriction is quite important, particularly when it comes to evaluating the range of applicability of the basic

* I am not convinced that the same is true of theoretical entities, for it would seem that there is no contradiction involved in the claim that there are theoretical entities that do not have factual existence precisely because they have an infinite number of conditions of possibility. It really is quite irrelevant whether we take the set of these conditions to be enumerable or non-enumerable. The claim, then, would be that conditions of possibility of factually existing objects are properties such that no object can have an infinite number of them; even those objects that have an infinite number of simple properties as, in a way, all objects do.

norms regulating the behavior of humans. They are of two kinds, to wit, those that express the conditions of possibility of social life simpliciter, and those that express the conditions of possibility of human social life specifically. From the point of view of the GTHSP this distinction is not essential and has only a methodological significance, as we shall see. But its theoretical importance is undeniable and would play a major role if we were trying to develop an account of social life in its human and non-human manifestations.

c. Norms and Social Functions

We have just seen that the GTHSP is not concerned with the study of all norms but only with the study of those norms that express the conditions of possibility of human social life. But we still do not know what these conditions are, nor how they are instantiated in society. In this section I will try to suggest an answer to the latter problem. In order to do so, and for purely hermeneutical reasons, I will start the discussion by examining the views of one of the most serious students of human societies, E. Durkheim, who, as it happens, did not believe that there is a unique set of universal norms equally valid for all human societies. Durkheim advanced his views in connection with his discussion of the phenomenon of crime. A very logical thing to do, since, after all, if there were universal norms, it would appear to be quite reasonable to expect a great degree of uniformity in the way violations of such norms are punished.

Now, after careful analysis of a great deal of anthropological information, Durkheim elaborated some quite interesting arguments both against any attempt to use an inductive-enumerative method for the determination of the essential features of the phenomenon of crime, and against any attempt to attribute an essential character to certain social phenomena by pointing out their necessity, which, in turn, can be determined by pointing out the "relations that they (the social phenomena in question) sustain to some condition external to them."³¹ Let us explain these two points.

I take Durkheim's criticism of the inductive-enumerative method to be quite sound in its intention, though not complete. The most important criticism against any attempt to discover the necessary and universal features of society through the application of inductive procedures is that any such attempt constitutes a contradiction in terms. Once we recognize the universal features of social life to be its conditions of possibility, it follows that they can be discovered only by a transcendental deduction of sorts.³²

Durkheim is also bothered by the fact that if one were to apply an enumerative method it would turn out, at the end, that the behaviors taken to be criminal in all human societies constitute an absolute minority, and, presumably, what is common to them is not necessarily shared by all criminal behavior. There is some truth to this argument, but there is also quite a bit of confusion in the way it is formulated. It is true that if the aim in mind is to define the essence of

crime simpliciter, the enumeration of qualities common to a few instances of crime is not the proper way to accomplish this, especially if what these few crimes have in common is the property of being viewed as such in all societies. No doubt that it would be a mistake to assert that what makes a certain behavior a crime is that it is typically viewed as such in all human societies. Eating meat is a crime in some parts of India, not so in the USA. But this does not show as Durkheim thought, that the property of being common to all societies is in any way insignificant.

Actually, this same conviction underlies his arguments against the alternative of defining crime by showing the relation that a certain behavior holds to something external to it. A characteristic example of this kind of reasoning would be to say that x is a crime, because x is contrary to the "great social interests" of a given community y. Two things are wrong with this move, Durkheim feels:

Besides the fact that such a theory accords too large a part in the direction of social evolution to calculation and reflection, there are many acts that have been and still are regarded as criminal without themselves being harmful to society. What social danger is there in touching a tabooed object, an impure animal or man . . . , etc.,
 . . . Even when a criminal act is certainly harmful to society, it is not true that the amount of harm that it does is regularly related to the intensity of the repression which it calls forth.³³

This last statement can be properly illustrated, according to Durkheim, by comparing the reaction to murder, a crime that is strongly penalized and considered horrendous in all societies, with the reaction to an economic crisis that, although it has

catastrophic consequences for society, does not issue a 'repressive' reaction from it.

As is well known, Durkheim wants to account for all these cases by introducing the notion of 'collective or common conscience.' Hence, an action is regarded as criminal in a given society, independently from its actual effect on the social body, in virtue of the 'sentiments' of revulsion that it can arouse in the collective conscience. I am not going to discuss the concept of collective conscience in this context, although I am convinced that a GTHSP must eventually concern itself with it. Most important for the purpose of this chapter is the detailed examination of Durkheim's arguments, for they touch the key issues relating to the discussion on the nature of crime and thus, social norms and their functions in society.

Durkheim is puzzled by the apparent discrepancy between the immediate effects that certain crimes have on society and the ferocity with which they are punished. A fact that seems the more puzzling given that certain other actions, like speculating in the stock-market and triggering a crisis, are not considered as crimes at all or, if they are, they are not taken to be particularly grave. Durkheim would probably find all this less puzzling, were he to take into account one of his own suggestions, i.e., that murder, if allowed to go unpunished and thus, if generalized, would render social life impossible. This obviously is not the case if speculation in the stock-market is practiced without limitations, for, if it is evident that the society where speculation of this sort is possible

would be destroyed, it is not true that social life as such would become an impossible enterprise. The whole secret of revolutionary processes depends on this one detail.

So, a small role, at least, has to be accorded to 'calculation and reflexion' when describing human social behavior, to wit, the amount of reflexion necessary to make the distinction presented above. Later we will speak about this more extensively. But the important conclusion that can be drawn from all this is that there seem to be two distinct levels of perception of social reality reflected in the organization of the normative codes of a given society, a deep level, where crimes regarded as serious violations are assembled, and a surface level comprised by all actions considered minor crimes.

A very superficial revision of available anthropological information or, even, a quick reading of the penal codes of some modern societies, would suffice to show, beyond all doubt, that there is great discrepancy as to the kinds of things regarded as grave faults in different places. This is the point of the first part of Durkheim's argument. Like the fearful Relativists, he too wants to make a major case out of the fact that, for example, robbery is punished in a capitalist society (generally that is) with as much energy as murder, while in some other societies this might not be the case.

At least two remarks are important in this respect. That there are actions viewed as criminal in some societies that are not criminal in others, is no more surprising than the fact that certain actions that can lead to the collapse

of a social order are not punished as criminal. Both facts can be accounted for with the argument sketched above, although in this second case a new detail has to be considered. Stealing someone else's belongings in a capitalist society constitutes a direct violation of the set of norms that characterizes that society as 'capitalist,' i.e., the norms that consecrate the right of individual property. Stealing is a case of illegal appropriation, but this is, under normal circumstances, not the case when appropriation is the result of speculation. Speculating in the stock-market is a kind of activity perfectly in consonance with the principles of free-market economy. The activity itself, therefore, is not a crime, although positive law can determine its boundaries. So, a proposal for the introduction of rules or laws limiting the prerogatives of stockbrokers can be sustained only by utilitarian arguments, if the proponent does not wish to abandon the framework of capitalism.

This leads us to the second remark. Given the set constituted by all crimes listed as serious in a code of law, we should be able to distinguish those that are so absolutely from those that are so circumstantially. An absolutely serious crime is the violation of a necessary and universal norm of conduct; a circumstantially serious crime is a violation of a norm necessary in relation to the preservation of a given social order. The first task of the GTHSP is, precisely, furnishing the theoretical tools required to make this distinction.

Now, in both cases the kind of necessity involved is what could be termed a functional or operational necessity.

That is, the connection between a norm and the facts of human nature that require it, is neither analytical nor causal in the Humean sense. To say that a norm is necessary means, simply, that it expresses a condition of possibility of human social life or of a particular social order. In the next chapter we will see that this concept of necessity is quite useful to deal with Hume's Guillotine.

We have already seen that human social behavior is by necessity normed or regulated behavior. Let us call 'social function' any regulated activity or set of regulated activities aimed at the materialization of a defined social goal. The production of material goods, for instance, is a social function in that it is a set of regulated activities aimed at the materialization of a specific social goal, i.e., the satisfaction of the demand for the goods being produced. Without assuming that "everything in a society functions," we can nonetheless propose a provisional definition of society as an organic set of social functions. The word 'organic' is supposed to indicate the fact that there is a relation between the different social functions of a society, such that the malfunctioning of one can have some effect on all the others.

There are two alternatives when one compares two societies: either one can establish a one-to-one correspondence between their social functions or one cannot. That is, there is nothing inherent in the notion of social

function that implies that there is a precise number that all societies must have. It is obviously true, nevertheless, that although in theory there can be an infinite number of possible 'social functions,' in fact, each real society can consist only of a finite number of them at each given point in time. This last remark is necessary if one wants to allow the possibility of social change. The more 'social functions' a society has, the more complex it is.

Now, from the assertion that two or more societies have the same number of social functions, it does not follow that the form of materialization of all these social functions or of some of them is the same in all cases. Take, for example, the social function of production, where 'production' is defined as the transformation of raw materials into consumer goods. It is quite clear that not only the production techniques, but also the social arrangements for the operation of the means of production can be extremely diverse in each of the societies considered. This observation has led many theoreticians to postulate various sorts of Relativism. The case of Wittgenstein, whose notion of 'forms of life' is on the basis of the notion of social function being introduced here, is one of the most pathetic. As is well known, he allowed himself to be misled by the great variety of appearances to adopt a fairly sceptical stand. But in relation to social functions, as in relation to the norms through which they are materialized, it is

indispensable to distinguish the two levels of perception that were mentioned before. The perception of the social function of production in a superficial level would show us the arrangements peculiar to a given society (the 'characters' of the institutions involved in production, as Malinowski would call them). A deep level perception of the same function would show us only its skeleton, i.e., the social goal being fulfilled such as it is in general. The GTHSP operates primarily at this second level.

There is one question that suggests itself naturally at this stage: is there any substantial difference between those 'social functions' materialized through absolutely necessary and circumstantially necessary norms? The answer must be yes. The difference, as a matter of fact, is crucial. But let us start by calling those 'social functions' expressed by universal and necessary norms 'fundamental social functions.' From what has been said so far, it follows that all societies must have the same number of 'fundamental social functions,' and that these express the conditions of possibility of social life in general.

Now, in our discussion of Durkheim we have seen that the hypothesis that there are some necessary and universal norms is not as wild as it seems at first. That not all norms regulating human social behavior can be arbitrary is the intuition underlying the doctrine of Natural Law. Even

the schools of thought that oppose it have been forced to deal extensively with the problem.³⁴ It is really quite unimportant whether one adopts a theistic or a non-theistic version of the theory: the assumption is always the same: because man has a certain natural constitution, some rights of prerogatives have to be accorded to him when he is living in society, i.e., he has to be perceived in a certain manner by his peers. Basically, this is, as can be easily seen, a juridical counterpart of the central thesis of functionalism. Later in this chapter, I will attempt to propose a new formulation of this ancient intuition. Here some other issues have to be resolved.

d. The Concept of Person

That the problem of 'man' is the most eminent of philosophical problems is as evident as the fact that it is the most difficult. Here I will not even try to deal with it. All I really will attempt to do is discuss the notion of 'person' to the extent necessary to show its central role in the GTHSP.

The study of 'person' and 'personality' has been the concern of philosophers, jurists, sociologists, psychologists, anthropologists, etc. It is only very recently, though, that isolated efforts have been made to approach this study from an 'interdisciplinary' perspective. In this case, too, the insufficiencies inherent to unilateral and partial inquiries into the nature of human phenomena have been slow

to be noticed. There are, in general, very few interesting attempts to give a presentation of the evolution of the notion of 'person' through history. Brunschicg's voluminous book³⁵ is, still, the best single work on the subject. The jurists have done a little better in this respect. But it seems to me that M. Mauss' brief article³⁶ is, if nothing else, the most suggestive of the available studies on the issue. It should be clear that I do not regard the notion of 'person' as one of the essential categories of the human 'spirit,' whatever that is, but I certainly consider it to be a main category of the GTHSP. The evidence that Mauss provides points in this direction, that is, it seems to indicate that the concept of 'person,' in any one of its manifestations, constitutes the basis for the stratification of society and, thus, for the distribution of roles, prerogatives, duties, etc.

But, in the framework of the GTHSP, the study of the category of person cannot be an empirical inquiry based on the data gathered by the social and juridical sciences. The point is that we are not dealing with an 'Aristotelian' category, discovered more or less at random, but with a Kantian-like category, that resists a purely empirical treatment. But let us start by making some necessary distinctions.

One of the major problems of modern jurisprudence is to distinguish the concept of 'man' from the concept of 'legal person.' That there is an obvious difference was

pretty clear for the Romans: the juridical notion of 'persona' applies not only to single 'physical' persons, but also to 'universitas,' to collections of persons. This distinction corresponds roughly to the modern one, incorporated in most existing civil codes, between 'natural' and 'juristic' persons. Del Vecchio thinks that the difference is best illustrated by pointing out the fact that while man qua physical entity is subject to change, qua legal person he remains always the same. These kinds of considerations have led some jurists to claim that 'legal persons' are not real things, but mere 'fictions'; some others have tried to demonstrate that, strictly speaking, law has no need of subjects, etc.³⁷ The general problem here consists in determining the ontological status of legal or juridical objects, given that it seems intuitively evident that physical and juridical existence are different.

Kelsen, without dismissing any of them as fictitious, wants to settle the issue by affirming the radical character of this difference. For him, the legal person is, indeed, a creation of the jurists and, in this sense, artificial, although not fictitious. It appears to be so, according to Kelsen, only to those who take the relation between the legal person and the rights and duties ascribable to it, to be fundamentally analogous to the relation between "substance and quality."³⁸ It is not that a legal person is something other than a human being, and that this something other is

the 'depository',³⁹ or the bearer of certain rights and duties; a legal person is nothing more than a human being part of whose behavior is regulated by law:

The physical (natural) person as the subject of duties and rights is not the human being whose conduct is the content of these duties or the object of these rights, but the physical (natural) person is only the personification of these duties and rights. Formulated more exactly: the physical (natural) person is the personification of a set of legal norms which by constituting duties and rights containing the conduct of one and the same human being regulate the conduct of this being.⁴⁰

Hence, an individual whose conduct is not regulated by law is not, in any sensible way, a legal person though he still might be a man. This is undoubtedly a very important conclusion, in spite of the fact that Kelsen fails to see all its real implications. Stopping halfway, he claims that:

. . . (a) legal norm determines only a particular action or forbearance of the individual A, not his whole existence. Even the total legal order never determines the whole existence of a human being subject to the order, or affects all his mental and bodily functions.⁴¹

Of course, it is not difficult to see why a legal positivist would be committed to such a view, for, since all law is contingent, what determines the personhood of individuals living in different societies cannot be a fixed set of laws. The quality of being a person does not depend on any one particular law, but on the general fact of being subjected to law.

There is still a deeper assumption underlying Kelsen's theory. He shares with the moderns the conviction that

individuals, as such, are endowed with a 'reality' totally independent of their social existence. Actually, it is therein that lies the tragedy of Legal Positivism in its classical variety⁴² and its most obvious and serious limitation: though convinced of the reality of the isolated individual, it does not regard it as a natural source of law.

The available anthropological and historical information leaves no doubt as to the historical origins of the notion of the independent individual in the midst of Christian thought. Actually, this Christian doctrine, as we have seen before, encountered its natural environment and attained its fullest development in the framework of capitalism. Suddenly, the individual could claim rights independently from the role it played in society. There were 'human rights' ascribable to the individual as such, and not qua player of a role. The 'human rights' had to be distinguished from the 'rights of the citizen.' The reality of the individual transcends the reality of its society and the reality of the state. Robinson Crusoe, if nothing else, had 'natural rights' and, of course, an individual soul.

I do not want to discuss here whether the causes for this abstract perception of man are the ones pointed out by Marx;⁴³ what seems clear is that, in this respect at least, the perspective of 'primitive man' was far more 'totalizing': the individual and its role were perceived as constituting a unit y and thus, perceiving an individual

involved the perception of the whole of the social order. Each person has its proper place in social space and there are no persons outside its borders: every thing alien is, in principle, non-human. The history of America and the early discussions concerning the human or non-human character of the natives provide us with more than enough examples to illustrate this point.

If there is something wrong with the traditional perspective it is not its totalizing character, but its provincialism, that is, the confusion of the contingent and the necessary elements of social life. Unaware of the artificial nature of society, of its man-made character, the arrangements of their own society appeared 'natural' to the primitives. A non-naive, enlightened totalizing perspective would differ from that of the primitives simply in the fact that it is aware of the existence of these two levels of perception. So it would see 'personhood' as the consequence of the subjection to law, of the ordering of conduct, not as a result of the application of any law, but rather as the result of the application of 'certain laws': those that express the conditions of possibility of human social life in general. This is precisely what Kelsen failed to see.

If being subjected to law simpliciter were the defining element of personhood, any entity whatsoever, and not only those entities with the characteristics of human beings could in principle be persons. A well-trained dog,

for instance, which refrains from harming people and, even once in awhile helps them, could be considered a person. The reason why dogs and other such entities are not conceived as persons even if their behavior is 'lawful' in the sense just considered, is that they are unable to take an active part in all the activities demanded of a person, most of which, as it should become clear later, require not only the ability to passively conform to law, but also the ability to take the initiative and actively participate in the materialization of the fundamental social functions. On the other hand, were we to come in contact with entities of another planet which possessed all the characteristics and capacities of human beings, then there would be no a priori reason to assume that, given the proper circumstances, they could not become persons.

The claim that a legal order does not determine "the whole existence of a human being subject to the order" is, viewed from the perspective just described, meaningless, for there is no such thing as a human being that exists beyond the realm of society. This is not to say, of course, that there cannot be unsocialized biological entities with some of the characteristics (external characteristics, that is) of human beings existing in a pure state of nature, but calling such entities 'human beings' would be a serious misuse of language. There is another way of interpreting the statement, similar to the one indicated above and also quite germane to the positivistic outlook, that is also a misunderstanding. For it is an

indisputable fact that in a given society there is no one-to-one correspondence between all the 'mental and bodily' functions of an individual and the set of positive laws of that society. But, again, this is a fact that needs trouble only the positivists. In a brief but quite suggestive essay, L. Armour⁴⁴ gives a good account of this model, after having discussed the paradoxes he considers inherent to it:

In the model, the situation is envisaged as one in which there are many complete and completely separate selves or persons and there is a law to which they stand in an external relation. The law is imposed on them, we think, and they are the same persons they would have been with or without the law.

It is this conception of all law as an external imposition that has to be rejected.

Now, if we accept the fact that there are certain fundamental social functions and that they are materialized through necessary norms, it follows that no entity incapable of allowing its behavior to be regulated by these norms can live in society. Moreover, such entity must be perceived as fundamentally alien by those human beings that live in society, for it incarnates the negation of all the attributes that define their nature. For a socialized entity, any other animated unsocialized entity is a beast, especially if it turns out to be, for one reason or other, resistant to all attempts of socialization. What distinguishes a beast from a person is, mostly, the fact that the behavior of the former is basically unpredictable, while the behavior of the latter is taken to be predictable at least under certain circumstances and in

certain respects, namely in those relating to the compliance with necessary and universal norms. Hence, those norms are not something external to the different persons, but rather they are what defines them as such. This implies not only that part of the behavior of the entities that we call persons is subjected to norms, but that what is regulated are the most fundamental or basic traits of their behavior, to wit, those traits that being indispensable for their survival as individuals are determinants of the kinds of relations they can establish with other entities of the same sort. In the most basic and proper sense, then, being a person means promoting, through the active compliance with all universal and necessary rules, the materialization of the fundamental social functions.

At this point we have to pause once more and distinguish between the proper sense of person, and the concrete meaning of the word in historical societies. It is fairly obvious that in a given society a 'person is not simply an entity that obeys universal laws. Living in a real society demands obedience to innumerable laws that are circumstantially necessary and even totally contingent. To be recognized as a person in Spanish society of the XVI century, one had not only to abstain from indulging in the systematic assassination of fellow Spaniards, but it was at least equally necessary to acknowledge the Bible as the word of God. But, in considering Durkheim's examples, we have already seen that there seems to be a clear way of perceiving these differences and that this selective apprehension

is reflected in all codes of law.* No human society could exist, were this ability not a universal characteristic of all human beings: in the final analysis, it constitutes the kernel of what is known as 'human rationality.' Neither the principle of non-contradiction, nor the capacity for deductive reasoning constitute the essence of human rationality. What makes a man a rational being is the same act that enables him to become a person, i.e., the comprehension of the necessity to regulate his own behavior as the condition for his incorporation into society. In a very precise sense, then, one begins to think and to live as a person simultaneously. This is the intuition behind the classical doctrine that evil cannot be 'willed' or rationally pursued. If rationality is the awareness or the conviction that certain actions or constraints are good in themselves because they make possible the existence of society and that, thus, the norms connected to them are necessary, any rejection of these norms, apart from being automatically immoral, must be either the result of ignorance or of lack of rationality.**

* In Chapters II and especially III, we will see that this ability is what allows humans to distinguish between the different kinds of laws, to wit, fundamental, secondary and tertiary laws.

** The sense in which the word 'immoral' is used here will become clearer later. Now we only need to notice that we say that the rejection of universal norms is 'immoral' insofar as morality is defined in terms of compliance with these norms.

Consider again the case of such domesticated animals as dogs, for instance. Apart from the causes listed above, a dog cannot become a person because it cannot be trusted to always do the right things in relation to the commands of universal norms. And the reason why we do not fully trust dogs is that we do not think that they possess 'reason' in the sense humans do. We assume a person's behavior to be predictable, simply because we think that he is 'reasonable,' i.e., that he conforms to law not only out of fear of punishment or because of habituation, but because he has an understanding of the necessity inherent in certain laws and, hence, is convinced of the necessity to obey these laws. It is because dogs, and lions, and chimpanzees do not possess 'convictions' that we expect their good manners to disappear when confronted with extreme situations. That is, we expect their behavior to be 'civilized' only while they find themselves living under relatively comfortable and stable conditions. In other words, we expect their behavior to be mainly determined by 'external' or 'environmental' circumstances, and not by 'internal' forces such as convictions and beliefs. And this is why we attribute virtues to them only by analogy.

The claim that conditioning is sufficient to explain habitual submission to law by the vast majority of human beings is proven false by the existence of moral arguments. That people feel the need to justify their actions is not an accidental and unimportant feature of human life, it is

rather the result of a clear apprehension of the fact that certain behaviors are required by 'human nature' and, thus, necessary. That is why all revolutionaries and dissenters begin by arguing that those laws that determine their status are contingent and arbitrary and, therefore, unjustifiable.* It is no accident either that equality was initially proclaimed as an ideal in the name of Reason.

The argument has led us naturally to the notion of 'human nature.' For a good many years in this century the view that there is no such thing as 'human nature' was quite popular among philosophers, who were convinced of the impossibility of reconciling this notion with the notion of 'liberty.' Most of these philosophers took human nature to mean 'essence' in the classical sense of the word. The Sartrean motto that "existence comes before essence" seems to be a good summary of this position. The point was, simply, that man, being not a creation of God, but a product of some sort of cosmological accident, was not predetermined to go in any particular direction, was not destined to be or to become anything, so that the burden of choosing a trajectory for his existence rested completely on him. In the absence of any pre-established final goals there was neither an absolute hierarchy of values nor a set of necessary moral norms.

*As a suggestive fact of the English language note the connection between the words 'just,' 'justice' and 'unjustifiable,' a connection that, by the way, is common to many languages both Indo-European and non-Indo-European.

The answer to this from the perspective of the GTHSP is pretty obvious. In the first place, it is clearly not the same to deny that there is a distinct transcendental purpose in the existence of human beings, and to deny the existence of human nature as such. The questions whether man was created by God or whether he is a freak of nature are irrelevant to the GTHSP, which is solely concerned with the processes and mechanisms that make human social life a feasible enterprise. The existence of a juridical person, such as has been characterized before, has no transcendental meaning whatsoever, although it is perfectly 'determined,' for as long as something is a person, its actions are immediately aimed at preserving a certain social order.

Since, to the extent that a person is a person, he follows both the fundamental laws that make society in general possible, and also the circumstantially necessary norms that make his own society possible, i.e., he realizes through his behavior the conditions of existence of social life. Of course, it could be argued that it is there where human liberty plays a role, for, conceivable, a juridical person could 'decide' to engage in the systematic violation of the universal norms that sustain society. But, in doing so, he would not be acting as a human being and thus it would make no sense to predicate 'liberty,' an attribute of human beings, of him. At most, we could say that the act of renouncement or repudiation is itself an act of liberty, but, in general, it is evident, as Sartre himself says today, that whatever 'human

liberty' means, it has to mean something that presupposes a certain degree of regulated action.

Besides, although it has been historically the case that most philosophers in the West have interpreted the notion of human nature in such a way that the affirmation of its existence implied the affirmation of the existence of a divinity and of the fact that human nature was a divine creation, it does not follow from this that, in fact, this connection is necessary. The reason that human beings have to behave in certain ways has nothing to do with God's wishes, but rather with the manner in which they are constituted; it is from the particular form of their being that the universal norms required for the materialization of the fundamental social functions are derived. The origins of this form of being are irrelevant. The GTHSP and, therefore, morality are beyond any question concerning the necessary or contingent character of the world and its elements, including the beings capable of becoming 'juridical persons.'

Moreover, it follows from what has been said so far that the postulation of the existence of 'human nature' is an indispensable feature of social life. 'Human nature' is nothing more, and, more importantly, nothing less, than the set of properties that constitute the basis for the derivation of all necessary and universal norms. In other words, there is a one-to-one correspondence between the set of fundamental social functions and the set of properties that determine 'human nature.' The reason why we do not normally expect

lions to behave like persons is, simply, that we do not perceive lions as being endowed with any or at least not all the qualities of the beings capable of becoming persons.

At an earlier point, I committed myself to the view that no enumeration of biological properties could provide a definition of human nature, and it would seem that now I am falling into a contradiction. But note that the claim made in the preceding paragraphs is not simply that all men living in society perceive a set of properties, rather the claim is that they perceive these properties as being unavoidable 'reasons' for the regulation of behavior, so it is this operational or functional character of the notion of human nature that is really important. If we did not possess a distinct notion of 'human nature' and of its relevant properties, we would not distinguish between the different kinds of beings as to their qualifications to become persons, and, hence, we would be unable to determine the specificity of human social existence. It is because we possess a clear idea of human nature that we do not consider dogs as possible candidates for personhood, and it is because we know the qualities of human nature that we can, through an act of reason, discern the basic rules or norms that make social life possible. Those that negate the existence of human nature commit themselves either to a view similar to that of Kelsen, who has to equate personhood with submission to law in general, and thus finds himself incapable of defining 'human

personhood'; or they adhere to the view that humans have no inherent obligations qua humans. This is the thesis of Sartre. Its main deficiency is that it does not permit to account for the notion of 'responsibility' as it operates in human societies.*

Assuming that I have a good will and that I feel inclined toward benevolence, I may find myself facing the task of trying to select the entities toward which I will act with benevolence. At the end, this question can be settled only by referring to a set of properties or characteristics such that their possession by an entity indicates that it is sensible to behave benevolently toward it. Mind, though, that the whole observation of these qualities does not generate in me the feeling of benevolence. What it does is signal that a moral attitude of a definite sort, i.e., an attitude requiring my concern for the safety of this entity and, hence, the exercise of some restraint on my part, would be appropriate. The generation of just these types of signals is the essential task of our notion of human nature.

* At least in his earlier works, Sartre proposes a paradoxical way out of this problem. After having denied the existence of absolute values, he tries to reintroduce the notions of 'obligation' and 'responsibility' by claiming that, insofar as one's choices necessarily affect others, one chooses for others and, hence, presumably, one has a responsibility of sorts towards others. The problem with this view is that an utterly vicious person, who chooses to harm others, is, to that extent that he exercises his freedom, no less human than St. Francis of Assisi. In other words, on Sartre's account, it is not the quality of our actions, but their form alone, namely, the fact that they originate in the free exercise of our will, which determines their moral character. At the end, all 'free' cats are gray, so to say.

The existence of inequalities in human societies is a further proof of the point that the perception of human nature is something more than the recognition of the fact that some entities share a common set of biological or other kinds of properties. In this respect, it is particularly interesting to consider the master/slave relationship. Obviously, the slave is not seen as a human being in the proper sense of the word, but it is not seen as an animal either. The discussion as to whether slaves were 'personae' in some sense, that for many years occupied the historians of Roman Law, is quite telling. By now it is generally agreed upon that slaves had certain rights, hardly a surprising fact, if one remembers that their Roman masters had to relate to them. It was precisely this need that forced or, if one prefers, led the Romans to recognize some of the qualities of human nature in their slaves: they were not simply beasts or non-persons in an absolute sense, they were semi-persons, deficient persons. This kind of perception is also neatly exemplified by the relationship between members of different societies that, for some reason or other, come into contact sporadically. Aristotle's point that political relations are substantially different from, say, trading relations, leads in this same direction. He was aware of the fact that the establishment of trade relations does not require the mutual recognition of their 'personhood' by the trading parties, although it cannot take place unless both parties perceive each other as at least

semi-persons, barbarians. That the Spanish travelers could come back from the outermost limits of Central-Europe proclaiming that all creatures living in those parts and beyond were nothing more than barking monsters indicates only that they had no need and no intention whatsoever to relate to them. When a human being is incorporated into a society, even as a slave (or should I say 'especially' as a slave?) he must participate in the materialization of the fundamental social functions, and thus, he becomes ipso facto a candidate for 'personhood,' even if he is not fully recognized as such by the laws of the land.

There is an interesting difference between two basic sorts of cases in which human beings are taken to be semi-persons. The cases of slaves, women and colonized peoples are instances of the first sort. Children, real children and not mere minors, that is, are good examples of the second sort.* In the case of slaves or women there are no factual impediments, other than the culturally generated ones, for their being recognized as full persons. It is obvious that they are not irrational creatures, in the sense that we have given to the word, that is, inability to submit one's behavior to

* The study of the historical transformation of the concept of childhood is one of the most promising and valuable tasks of social science. The first thing to distinguish in this respect would be the notions of 'real' and 'cultural' childhood. The research of Wallon, Piaget and their followers deals, primarily, with the first phenomenon. Books like P. Aries', Centuries of Childhood (London, J. Cape, 1962), deal with the second phenomenon. The GTHSP is mainly concerned with the first.

regulation. Real children are irrational in precisely this sense. The real end of childhood comes, therefore, with the development of the ability to comprehend the necessity of following certain norms. The description of the actual process of transition from childhood to personhood is one of the important contributions that psychology can make to our knowledge of human nature.

Let us now briefly summarize what has been said in this section. Certainly, many questions have remained either unasked or unanswered, but this is, partly at least, due to the introductory nature of this section. What I have attempted to do is merely present a general definition of the basic notion of person. Later on it will hopefully become clear how a person is constituted in the framework of social life. Meanwhile, we know that a person is a biological entity with certain specific characteristics, yet to be listed, which constitutes the ground or basis of its real or essential nature, i.e., its juridical being. This juridical being is generated through behavior conducive to the materialization of certain norms which, in turn, materialize certain functions that make possible the establishment of associative and cooperative relations among persons. We know also, at this point, that, in real societies, the behavior of a person is regulated both by universal and contingently universal norms. This is an important fact to keep in mind in order to understand why the persons of one society can regard persons of

other societies as non-persons. For personhood, as we shall see in detail in later sections, can be lost either by violating the universal rules, in which case the loss is absolute, or by violating the contingently necessary rules of a given society, in which case the loss is relative to that society.* But having established through analysis that the condition of humans living in society is juridical in nature, and having seen how, in general, this condition comes to be as a function of certain norms, it is now necessary to examine in detail the qualities and the circumstances inherent to the existence of humans as juridical entities. This section then has been important mostly because it showed that persons and their attributes are the real subject matter of all anthropology.

e. Human Relations, Social Space and Institutions

The first step towards the understanding of juridical persons must be the study of juridical relations. According to what we have been saying, the concept of person is

* There is a third way in which one can be deprived of personhood, namely, by being sold into slavery or servitude. When Plato, a person in his society, is captured and sold as a slave, he does not necessarily lose personhood in Athens, though he certainly is a slave in some other society. This example exhibits both the juridical character of personhood and the limitative function of secondary or contingently necessary rules. Plato would lose his personhood absolutely, if there existed a law in Athens depriving of personhood all persons sold into slavery. In this case, Plato would be, strictly speaking, no-where a person. (For a more detailed treatment of these issues see Chapter III, 5.)

essentially a relational concept, for persons come to be as the result of the lawful intercourse of two or more human beings with one another. To attribute personhood to a certain entity is tantamount to predicating a certain kind of relationship of it. But so far, and although we have repeatedly talked about human relations, we have not examined in detail what they are, how they operate, what their nature is. In this section we will attempt to do just that, primarily in order to determine whether they constitute a particular type or class of relations and, if so, how they differ from other kinds of relations.

It seems obvious that not all kinds of human relations require either direct physical contact or the spatial proximity of the parties of whom it is predicated. Although, on the other hand, it is difficult to deny that, in some cases, a relationship can be perceived as somewhat deficient if some of those elements are missing. Consider, for instance, a marital relationship. Under extreme circumstances (or, perhaps, not so extreme, after all) we could think of such a relationship existing between two persons who have agreed to avoid any 'physical' contact whatsoever (Gandhi and his wife) and we would not be disturbed even if, having carried their neurosis one step further, the spouses decided to live as far apart as possible from each other. Our endurance would only meet its limit if the odd couple decided to procreate while honoring their previous agreements. For in most cases, procreation requires a minimum of physical contact. In other

words, under normal circumstances a married couple cannot add to its marital relationship the relationship of parenthood unless, at some point, they engage in coitus. But the important thing to notice in this respect is that, although the coitus is a prerequisite for the generation of the relationship of 'parenthood,' we do not identify the two.* Actually the point that we are trying to press here comes across more neatly if we think of the case of 'parenthood' generated through adoption. Even Gandhi and his wife can become parents in this way. What makes them that, then, is not any form whatsoever of physical contact, but something else.* Juridical 'parenthood,' strictu sensu, therefore, can be said to be something different from physical 'parenthood.'

That spatial proximity is not always necessary for the establishment of a well-defined juridical relationship between persons, can be illustrated by the relationship of 'citizenship.' Let us for a moment suppose that there is a nation of one square kilometer and one hundred citizens, so that, by any reasonable standards, we can say that all these individuals are, when living in the territory of their country, quite 'proximate' to one another. As a matter of fact, they could be holding hands all the time. Now, even in the case when one of these individuals goes for an evening walk and crosses the border into the neighboring country, he retains

*For an account of this relationship, that is used here only as an illustration, see Chapter II, 2, f.

his citizenship and thus, his relation to his countrymen remains basically the same.

But let us ask now whether recognition is necessary for the establishment of human relations. Evidently relationships like parenthood demand a very straightforward kind of recognition; generally, that is, for the pitiful case of Oedipus shows that a relationship can subsist even in the absence of 'factual' recognition of one party by the other. The case of Oedipus is particularly interesting because it proves that juridical relationships are perceived as real even when they do not exercise any immediate constraints on the behavior of the parties directly involved. This, of course, seems to contradict the definition of juridical proposed above. But the appearance is dissolved once we realize that as soon as the relationship is recognized, it starts exercising a strong influence on the behavior of all the parties touched by it.

The relative ambiguity of the words 'recognize' and 'recognition' in the preceding paragraphs indicates the necessity of distinguishing two kinds of phenomena: recognition and identification. My being a Chinese does not require that I identify each and everyone of the 800 million persons to which I am connected. All that is required of me as a Chinese is that I master the criteria, whatever they are, that will allow me to identify one Chinese as my countryman, should that become necessary. So, it seems that recognition is more than enough for the subsistence of juridical relations. But

to say that I recognize someone implies that I have at least some previous knowledge of that person. Ex hypothesis, this knowledge cannot come from my having identified that person in the past. If at all, I know this person in a general and vague manner. This knowledge is provided by the criteria just mentioned. Somehow or other, then, these criteria must be implicit in the structure of the juridical norms that fix the relationships between people. These criteria, where the universal moral norms are concerned, must be the qualities of human nature, and where the circumstantially necessary norms are concerned the criteria are provided by reference to those additional traits required of persons in each historical society.

But we still have not made explicit the connection between those few properties of human relations already discovered and the notion of 'person.' A first question could be, how do persons relate to other persons? Using their peculiar jargon, some contemporary philosophers interested in providing a phenomenological description of human relations* have repeatedly pointed out the fact that human beings necessarily encounter each other in their 'Lebensraum.' This necessity, we could add, is inherent in their nature, insofar as they are persons. To be a person is, precisely, to be in certain kinds of relationships with other entities accepted as persons.

* I have in mind especially the works of Heidegger, Sartre and Schutz (cf. his Collected Papers. The Hague, Martinus Nijhoff, 197e).

But let us examine this more carefully. If we were to claim that identification is a condition for human relations, we would be forced to admit that it is impossible to participate in the materialization of a social function with persons that have not been positively identified case by case. But this conclusion seems absurd. Take, for example, the social function of production. There is no doubt that insofar as I am participating in the production of material goods, I am in fact related to hundreds of persons whose existence as individuals I ignore. What I know and have to know is, simply, that there is a person or a set of persons to whom I am related; I have to recognize the relationship and thus, implicitly, the personhood of those touched by it.

In a way, in recognizing that I am related to other persons, I am placing myself in the same realm, place or space with them. So to say, all persons related to each other occupy the same 'social space.' The next question, naturally, concerns this social space. Do all the people who occupy the same social space have to occupy the same territory? The examples we have considered above seem to indicate the contrary. Unless X has been deprived of his nationality he remains a citizen of A even when he steps outside A's borders. That is, the social space cannot be identified with a certain territory, its borders are not geographical, in spite of the undeniable fact that some kinds of relationships are territorially or geographically bound. But all this means is that they have been defined in such a way that their materialization

requires a territory. As a foreigner, for instance, the positive law of a country does not touch me until I actually enter the territory of this country.*

What is the 'social space'? If the social link of one person to other persons is established by and through their cooperation or participation in the materialization of social functions, the social space cannot be but the realm determined by the effective materialization of a set of social functions. As immediate expressions of the conditions of possibility of social life, the fundamental social functions set the real limits of the social space. Another way of putting this would be to say that only juridical persons inhabit the social space. In its concrete form, the social space is delimited by the materialization of both fundamental and non-fundamental social functions.

Now, at this point it seems quite relevant to clarify the notion of 'materialization.' The language I have been utilizing so far could give the impression that I think of fundamental social functions as subsisting Meinogian objects, that are instantiated in real societies. But putting the problem in terms of the realist-nominalist controversy would be totally erroneous. The existence of juridical entities is substantially different from the existence of the objects that have traditionally been the concern of ontology.

*For a discussion of the relation between the social and geographical spaces, see Chapter II, 2, a and b; and Chapter III, 3, a.

Juridical entities do not exist either as Meinogian objects, nor as concepts in a mind of some sort. Contrary to the beliefs of some structuralists, fundamental social functions are not categories of the human spirit, if for no other reason, simply because they are prior to anything deserving that name. The materialization of social functions is not the pass from the ideal to the real. There is no more reality to a social function than the actual generation and operation of the norms that express it, that render it into a working 'institution.' Beyond the institutions of a society, beyond the social organisms generated by the activities of socialized entities or of entities in the process of socialization (personification), there is nothing real so far as human society is concerned. Hence, the limits of society are absolutely congruent with the limits of legitimacy.* This is why we can find a natural tendency in all societies toward the annihilation and repression of illegitimacy. By nature, punishment tends towards annihilation.

*Strictly speaking, legitimate in the context of a society of humans is only the behavior that results from the materialization of fundamental and secondary norms. Such norms define the borders of the social space and, hence, the limits of the acceptable. A person can go beyond these borders only by violating the fundamental norms and thus, by endangering the very foundations of his society. From this point of view, punishment appears as a defense mechanism of society. The most effective defence is, obviously, the neutralization of the threat by the annihilation of the source. This is the goal of 'punitive' justice. But for reasons that will be considered later (Chapter II, 2, g), punitive justice is substituted in many cases by 'corrective' justice, which administers punishment while, at the same time, seeking to open the door for the reincorporation of the offender into society, into the realm of legitimacy or, to put it differently, into the social space.

2. The Theory of Needs and the Deduction of the Fundamental Social Functions

a. On the Needs and Characteristics of Human Nature

The next two sections have two purposes. The first is the definition of human nature; the second is to clarify the methodological problems concerning both the procedure for the definition of human nature and that to be followed to deduce the conditions of possibility of human social existence. The first task requires that we discuss, briefly and selectively, some of the current attempts to define human nature in terms of 'needs,' 'wants' or 'drives,' for it is in those terms that we intend to define it. The second task requires, first of all, a clear account of the relations of the needs or characteristics of human nature to the fundamental social functions.

Now, the most obvious question that can be asked at this point is, why should we want to define human nature in terms of needs? It is clear, from our previous discussion, that what we are after is the set of qualities which enables humans to live socially. For these qualities underlie their existence as juridical persons. But there must exist a certain parallelism between the qualities that allow them to survive as physical or biological entities, and those just mentioned, since it is selfevident that a society must be constituted of living individuals.

Mere biological survival, on the other hand, does not make persons. Personhood, insofar as it is a relational quality, can only be an attribute of entities endowed with certain relational qualities. Now, all these qualities are dynamic in character to the extent that they manifest themselves as demands, and not, like the color of the skin or the symmetric design of the body, as passive attributes. It is because of this that I prefer to refer to the definitory, dynamic qualities of human nature as needs. In a way, all the references to 'needs' made above have been relatively vague. To a great extent I have been relying on our natural, intuitive understanding of this notion, which is what the GTHSP really requires. But the fact cannot be ignored, that the notion of 'human needs' has been greatly blurred by the different uses made of it in the different disciplines. It constitutes the basis for very important schools of thought in at least three of the social sciences, anthropology, psychology and sociology, and it has certainly played an important role in the history of morality and political theory. I shall leave for the next chapter the task of dealing with the moral and, en passant, also the political implications of the theory of needs. Here I will simply try to give a universal operational definition of the notion, as required by the GTHSP.

In a recent paper,⁴⁵ H. J. McCloskey has pointed out the importance of distinguishing the notion of needs from such similar notions as 'desires,' 'wants,' 'interests,' 'drives.'

Drives, McCloskey says, can be bad or negative, perhaps something like the destructive instinct that certain psychoanalysts talk about, but it would seem that a contradiction is involved in the claim that 'needs' can be destructive. Furthermore, it would seem, McCloskey goes on to say, that the connection between desires and needs is more or less accidental. Now, although his general point is basically sound, I think that the fact that it is formulated as an empirical claim betrays an important weakness, which becomes quite visible in the example he proposes. McCloskey wants to illustrate his claim by referring to the fact, noticed by Butler, that it is in a way extraordinary that when we have a need for food, hunger, we 'desire' those things capable of satisfying it rather than any other thing. In the first place, as is well known, this phenomenon does not appear so mysterious to biologists anymore. In the second place, as he himself notices, there are such things as 'natural desires' that can hardly be distinguished from 'needs.' At most, a distinction could be made by introducing the notion of 'consciousness,' that is, by claiming that a 'natural desire' is the result of one having become conscious or aware of one's need for x. But all this is unnecessary if one sticks to the distinction, drawn by McCloskey in an earlier part of his paper, between having a need qua 'person' and having a need qua player of a role.⁴⁶ In the latter case we could more properly say that we have a desire, an interest or a want for something. Needs, then, and in this respect I think McCloskey's

thesis is largely correct, are determined by 'human nature' and thus, they are permanent and remain essentially unaffected by the course of history and changes in society. Another way of putting this would be to say that natural needs are not socially determined.

The problem, of course, lies in deciding what is to count as a 'natural need,' as a constituent of 'human nature.' Proposed lists are not lacking. Neither is a feeling of skepticism as to the possibility of constructing a list that is really exhaustive, especially if what one is trying to classify are basic physiological needs or drives. A. Maslow⁴⁷ thinks that depending on the "degree of specificity of our descriptions" we could come up with many lists of physiological needs differing both in the number of items they include and in the manner that items are classified and arranged. So, for instance, some people may want to classify as homeostatic some drives to which others attribute some other function. Besides, Maslow insists, only a few among the so-called physiological needs can effectively be isolated and "somatically localized." That is, even if the generalized presumption that the physiological drives exhaust the list of 'basic needs' were true, it still would be virtually impossible to establish a unique, final list of such drives.

But, according to Maslow, it is fortunately the case that one does not require an exhaustive list of physiological drives, because the identification of physiological drives

and 'basic needs' is untenable. The most conclusive and immediate proof is that once satisfied, physiological drives cease to be a permanent factor in the motivation of behavior. The real importance of physiological needs can best be recognized not by observing the behavior of someone who has not been able to satisfy any or some of them, but rather the behavior of someone who has achieved a sufficient degree of satisfaction of his physiological needs. In the latter case, the physiological needs appear as one among many other needs that are at least equally important. Most of these other needs have a 'psychological' rather than a physiological character and they are the 'safety needs,' the 'belongingness and love needs,' the 'esteem needs,' the 'need for self-actualization.' The physiological plus these psychological needs constitute what can truly be considered as the set of 'basic needs.' But the recognition of this fact implies the dismissal of a further prejudice, i.e., the presumption that a list of basic needs can be established without regard to the "goal objects" of motivated behavior. Maslow's thesis is that all evidence now available tends to indicate that the aims of people are more stable and universal than the immediate motivations of their behavior.

This presentation of Maslow's views is, of course, quite sketchy, and his theory certainly deserves more attention, if for no other reason, simply because of the great impact it has had on contemporary psychology. But even this

brief presentation is enough to point out the main assumptions supporting the theory, with which I cannot completely agree, i.e., the conviction that there is no basic difference between psychological and physiological needs. Actually, Maslow dismisses as unimportant the one argument that points directly to the fundamental difference, i.e., the fact that lack of gratification of physiological needs can easily turn them into the main and even the only motivations of behavior. The importance of this fact becomes absolutely clear if one considers that although no social function can be said to exist exclusively for the purpose of allowing the socialized satisfaction of any of the psychological basic needs mentioned by Maslow, there is no doubt that at least the social function of production is directly related to the satisfaction of needs that we cannot but consider part of our physiological needs. We can certainly claim a priori that there cannot be an institution in any human society whose sole or primary purpose is the socialized satisfaction of the need of self-esteem or the need of self-actualization, and if we wanted to claim that the function of some institution or other is the satisfaction of the need of "safety" or "love and belongingness," we would, most probably, give a physiologically biased interpretation of those needs, and not, as Maslow, a purely psychological one.

This same point can be made in a different way. Maslow's psychological needs, if satisfied, do in no manner alter the juridical existence of a person, but rather provide it

with happiness, i.e., they confer him psychological enjoyment. But it is clearly not the case that they are the basis for fundamental social functions, since a society of persons is perfectly conceivable in which most or all persons are unhappy, that is, psychologically uneasy or uncomfortable. What is not conceivable is a society of persons in which no provisions have been made for the satisfaction of the most basic physiological needs.

But, if in this particular respect, Maslow's views are not acceptable, I think that one cannot discard so easily his arguments against the necessity and the possibility of elaborating a final, comprehensive list of physiological needs or drives, such as the one proposed by Malinowski, for example.⁴⁹ Such a list is quite irrelevant from the point of view of the GTHSP. All that it requires, as we shall see immediately, is the recognition of the existence of a set of needs broadly identifiable as physiological.

In general, I feel that I can also agree with Maslow's insistence on the importance of taking a 'holistic' approach to the study of human behavior, so as to regard motivation or any other aspect from the point of view of its effects on the whole of the 'personality' of an individual and, in this connection, the necessity of taking into account the final goals of the individual's behavior. But, as they stand, Maslow's statements are, to say the least, incomplete and in need of reformulation.

Faced with the task of singling out one weakness in Maslow's theory that could be considered crucial, I would point, without hesitation, to his conception of man and his account of the relation between the individual and culture. Basically, Maslow shares the image of man as a self-sufficient entity, for whom culture and society in general are mere 'means' or tools for this self-realization. It is only in this framework that his contention that the basic needs, which are determined by the organism, are the ultimate goals of human behavior, makes any sense. We have already seen in previous chapters how it is that this inverted picture of reality obscures the fact that the individual is determined as such by his involvement in society. What this means in relation to the purpose of his behavior is that his most important acts are aimed not at the satisfaction of his own "goals," whatever they are, but rather at the materialization of the social functions that guarantee his survival as an individual. So, taking a 'holistic' approach can only mean starting from the perception of the individual as a juridical person. In this light, even the real role of the "psychological basic needs" of Maslow can be seen with greater clarity. For if they have any function, it must be that of furnishing fuel for the operation of the individual in a given society, once he has been constituted as such. So, for instance, self-esteem might be an additional inducement for a person to perform certain tasks connected with the materialization of a fundamental social function.

But let us go back now to our job of determining the main and most striking qualities of 'human nature' both physiological and non-physiological. Again, Malinowski can be of some help despite of Maslow's criticism. In the text that I have been quoting,⁵⁰ he proposes a list of basic (physiological) needs that is the result of grouping and condensing what he calls the "vital sequences" such as those that have their starting points in the drive to breathe or in hunger or in the sexual appetite, etc., into seven items, to wit, metabolism, reproduction, bodily comforts, safety, movement, growth, health. The satisfaction of these needs demands, in each case, certain 'cultural responses' and thus, the development of definite kinds of institutions. Now, it seems quite obvious that this list of seven needs can be further condensed by simply noticing what they reveal about 'human nature.' Failure to satisfy all or any of these needs, except the need for reproduction, would result in harm to the body of an individual, thus, we can say, using Warnock's term, that the individual is 'vulnerable.' Actually, if we wanted to keep with tradition, we could also say that the fact that humans have a body and, hence, physiological needs to satisfy, renders them 'corruptible,' subjecting them to a cycle of generation and corruption. To make this brief, but important point, we do not require a comprehensive list of physiological needs, although we certainly have to say a couple of things concerning the vulnerability of humans.

In general, humans are vulnerable to the action of nature and animals, and to the actions of their fellow humans. Both of these forces can harm either by deprivation or violence. A drought and a siege are examples of the first instance, an avalanche and a beating are examples of the second.

That the need of reproduction is basic, if not for the individual, undoubtedly for the species as such, cannot be disputed. Whether the reproduction is achieved through artificial or natural means, it is the only way in which the human species can perpetuate itself. At this point, of course, we have left the individual behind and we are listing as a basic characteristic of human nature something that, *strictu sensu*, belongs to him as member of a species, rather than as an isolated entity. We cannot properly claim that an isolated individual has the need to reproduce, although we might want to say that he has sexual needs. That there is a basic difference between the two is shown by the fact that, in the end, the sexual needs can be satisfied by the individual in isolation, while the need to reproduce, implies necessarily a relation between individuals of the same species. It is only in the imagination of people that reproduction as such satisfies sexual needs.

Connected with the need of reproduction is another important fact of human nature, to wit, the fact that newly born humans lack many of the capabilities and a great deal of

the knowledge possessed by any normal adult member of the society into which they are born. This need for training and instruction has, in a sense, a twofold character, for we can attribute it both to the individual as such, and to him as a member of a society. If someone wanted to make the point that the individual has need of society, he would not have to postulate the existence of a 'social instinct.' The need for instruction is, probably, the strongest and most natural 'socializing' force in the case of human beings.

Now, while the role of other members of the species is basically passive in relation to the acquisition by a newly born individual of the physical capabilities he lacks when he is born (all they have to do is provide some food, shelter and general security); the role played by them in promoting the acquisition of knowledge is much more important. Even if we assume that people are endowed with something like innate ideas, categories and so on, we still would have to grant that not only the actualization of these ideas and categories, but also the acquisition of concrete knowledge concerning the natural and social environments, the use of tools, etc., depends on the efforts that the adult population of a society is willing to make in order to transmit the information it possesses to the newly born. One of the most important aspects of this process of training is the one connected to the development of what above I have called 'understanding' and that could also be called 'social consciousness,' that is,

as we have seen, the ability to recognize the need to submit one's own behavior to regulations.

This leads us to what I take to be the most notorious (although perhaps the least noticed) fact of human nature. The fact that human beings, as by necessity all socializable entities, are relational creatures. Nothing can be more tautological than the statement that a set of relational beings is the important requirement for the existence of a society, which, by definition, is nothing more than the sum total of the relationships established among themselves by a given set of relational beings.

When we think of 'relational beings,' we can think of two kinds of entities: 1) entities capable of relating to each other in one way and in one way only, and 2) entities capable of relating to each other in more than one way compatible with their subsistence as living individuals. The first kind of entities we will henceforth call 'unirelational entities'; the second kind we will baptize with two synonymous names 'multi-' or 'plurirelational entities.' Angels, both good and bad, ants, termites, bees, etc., are examples of unirelational entities; man is, so far, the only example we know of a 'multirelational' entity. In this quality lies the secret for the understanding of the concepts of reason and liberty, and thus, as I will try to show in what follows, the key to the comprehension of morality.

But let us first dwell for a while on the concepts just introduced, and attempt to clarify them as much as

possible. In a very general sense all organic beings can be said to be relational entities. Plants relate to each other for the sake of reproduction, and so do the most primitive of animals. But the only kinds of relations that are of any importance for a theory of social praxis are those that depend for their establishment and perpetuation on what could be termed the purposive behavior of their elements. To say that an entity exhibits purposive behavior does not imply the attribution to it of certain mysterious or superior qualities of understanding. The notion of 'instinct,' insufficient as it is in many respects, would be more than enough, nevertheless, to account for the degree of understanding required to engage in purposive behavior, in the sense that we want to use the word here. But there is clearly some purposiveness or finality reflected in the behavior of bees and termites living in complex colonies, as there is, undoubtedly, quite a bit of purposiveness behind most of the behavior of monkeys towards one another. Hence, it is not in terms of purposiveness alone that we can distinguish unirelational from multirelational beings.

But what does it mean to say, then, that a being exhibits some degree of purposiveness or goal directed initiatives? A bee, for instance, not only is capable of setting out to look for sources of nourishment for its colony, but it is also capable of going back to its colony in order to communicate its discoveries. The first detail to be noticed in this respect, nevertheless, is that bees are 'programmed'

to act in ways conducive to certain goals. This is why, going back to the distinction between organic and juridical associations made above, we can say that animal societies are organic and not juridical in character. The bee, or any other animal for that matter, does not 'deliberate' before acting, even though her actions might be purposive to a point.

Things are not as simple as it might at first appear, though. As we know, the organizational structure of many animal societies is flexible enough to accommodate a certain amount of change aimed at adapting to changes in the surrounding environment. Do we have to suppose, then, that some animals possess a limited power of reasoning which enables them to change consciously or willingly their societies? Do animals have a will of sorts? It seems to me that this is not what is to be deduced from the facts. All we have to do to account for the facts is postulate the existence of a complex program in the organism of some social animals. A program rich enough to handle more than one kind of environment. This becomes clear if we consider the kinds of changes that a modification of the environment calls forth in the organism of social animals. It is not the structure of the society that changes, but either the organic structure of some individuals (some worker ants turn into soldiers or start procreating), or the population density of the society changes. The sets of relations that the members of animals societies have to each other remain always the same. No new functions

can appear in the midst of animal societies. This does not mean, of course, that either some individuals or the society might not 'learn,' something new about the environment. We can even concede that certain monkeys are capable of acquiring new technical knowledge, of learning new ways of doing things. What makes animals unirelational entities is not their lack of knowledge, but the fact that they are constituted in such a way that they can establish among themselves only certain kinds of relationships, and that these relationships are basically immutable. It is precisely because of that that animals, even when they are living in society, cannot be said to be juridical beings. Their behavior is not normed or regulated; it does not follow a code, it simply unfolds a program.

The potentiality of becoming juridical beings is a privilege of multirelational beings. While for the individual and the colony to which it belongs is its natural place, for a man, qua biological being, society is not a natural place. Human society, we have seen, is the natural place of juridical persons, not of biological entities. But it is because they are constituted the way they are, i.e., it is because they are multirelational, that humans are capable of becoming juridical persons and that their relations are juridical in character.

But, what is exactly the property of humans that makes them multirelational beings? Is it the fact that they possess reason or understanding? Certainly not, for we have already

established that what we call reason is properly predictable of persons and not of biological beings as such. Is it then the fact that humans are, in a way, born incomplete and that only through the help of others can they survive long enough to attain biological maturity? Not either, because there are many species of unirelational beings which find themselves in the same circumstances as humans when they are born. Besides, what we are looking for is not a biological hypothesis concerning the reasons why humans constitute societies. What we are after is a characteristic of humans that explains why their societies are juridical and not organic.

It seems to me that if we were to persist in our attempts to discover a characteristic or a set of characteristics which are to be identified with what we have called multirelational properties, we would soon find ourselves committing the same mistake of traditional philosophical anthropology, namely, that of proposing abstract definitions of human nature. What we need to do here is risk a sort of Copernican turn. For it appears that what makes humans multirelational entities is not the possession of certain characteristics, but rather the lack of some, to wit, the lack of those characteristics that make animals, even social animals, programmed beings. In the tradition, two expressions have most often been used to refer to this quality of humans, 'free will' and 'freedom.' In our time, the Existentialists have been the one group of philosophers who have emphasized

this trait of humans the most. Traditionally, though, speculation concerning these qualities has been mystified. The Medievals, some of them at least, thought 'libero arbitrium' to be an attribute of the soul. The Moderns, especially since Kant, think of freedom as a quality of Reason. We need not concern ourselves at this stage with these matters. I have mentioned them in the context of our present discussion primarily to dissipate any feeling of strangeness and obscurity by showing that the talk concerning the multirelational character of humans is not absolutely novel. I detect in Simone de Beauvoir's notion of 'ambiguity' an interesting insight into the nature of multirelationality.⁵¹ It is in fact a kind of ambiguity in its nature which allows us to perceive man as both a natural or biological and as a juridical being. No such distinction can be made in relation to any other being that we presently know of. But let us now examine more precisely how this multirelationality operates in reality by considering its limits and the possibilities it opens.

A possible objector to the definition proposed above could argue that, in a sense, there are no such things as 'unirelational' entities for any relational entity can, in principle, relate to any other entity of the same or a different sort in at least two ways, one of which can be destructive, that is, incompatible with the subsistence, as living individuals, of one or both members of the relationship. The

hunting of deer by a lion can, on this account, pass for a sort of destructive relationship. The way I see it, this argument rests on an equivocation in the use of the term 'relation.' A relation insofar as it is social implies a minimum amount of cooperation and at the very least a modicum of reciprocal recognition of some of their respective needs by the elements of that relationship. Even in the case of a master/slave relationship, which is probably the type of relationship closest to what a destructive relationship would be, the master recognizes, as we have seen, some of the needs of his slave. A 'destructive relation' in the strictest sense of the word is a contradiction in terms from this point of view. When a bee of a colony kills the intruder from a different colony, what it is doing is not establishing a 'negative relationship,' but rather negating the possibility of any kind of relationship with the intruder. But, here again, we can notice a great contrast between unirelational animals and man, for the latter is the only relational creature we know of that can, in principle, flatly refuse to establish relations of any sort with his fellow men. Only a man can turn against his whole species; social animals can, at most, turn against 99% of their fellow specie members.

So, man is a multirelational creature, but, what does this really mean? I guess the most immediate and significant consequence of this fact is negative in character. Given a set of multirelational beings, they can, by definition,

establish among themselves n different kinds of relationships some of which are mutually exclusive. That is, only a limited number of the total number of relations that they can establish among themselves can actually be materialized at a given point in time. Let us suppose that A_1 , A_2 , A_3 , A_4 are all the subsets of the set A of possible relationships between the members of a given class of individuals. Let us further suppose that there are some external determinants such as climate, availability of natural resources, etc., that exclude, ipso facto, one of the alternatives-- A_3 for instance. Let us also suppose that the knowledge the individuals possess allows them to discard alternative A_4 . Note in this respect that there would be an immense difference between the first case and the second. A_3 was never a tangible alternative, while, according to our example, A_4 had to be discarded on some specific grounds.

Consider the following example as an illustration of the point I am trying to make. A_3 calls for the materialization of a set of relations implying the existence of a great ocean nearby, but our individuals find themselves in the middle of Kansas. Obviously, the possibility of materializing A_3 will not even be considered. A_4 , on the other hand, calls for building huts out of a type of stone to be found on top of a high mountain, rather than out of wood, which is readily available.

There are left alternatives A_1 and A_2 , both of which do not require anything else than those things and conditions

at hand. For the sake of argument, I will avoid taking sides right now in the controversy between determinists and voluntarists, with which I will deal in the last chapter, and I will simply assume that our multirelational friends can choose which set of mutually exclusive relations they want to materialize. By mutually exclusive sets of relations I mean something like the set of socio-economic arrangements that would result in a capitalistic order versus a set of relationships that would result in a socialist order. Now, choosing A_1 rather than A_2 means, basically, opting for a pattern of behavior that is more or less self-enclosed and that consistently avoids the behavioral patterns on which a 'life style,' based on the opposite assumptions, would be grounded. The materialization of a set of relations among multirelational beings requires, then, an apparatus capable of sifting those relations that are, so to say, allowed from those that are, as a matter of principle, not allowed. Because of their multirelational character, the establishment of a society of men asks for a strong mechanism of exclusion; in fact many more things have to be excluded than included.

But not only other possible behavioral patterns have to be excluded from a given society of men; also those that would make any socialized behavior impossible have to be dealt with, for, even though the likelihood of this happening might be very small, any human being, as we have seen, could in principle opt for them.

So, very broadly, I have pointed out some of the main characteristics of 'human nature.' More than one argument could be brought out against the list. Already I have attempted to deal with the most powerful ones, i.e., the accusation that 'human nature,' as presented here, is defined as the collection of some of the most obvious and notorious features of humans, as opposed to a view resulting from a scientific study of these same qualities and of others that, upon observation, could turn out to be more basic. As pointed out above, the GTHSP cannot be based on an understanding of human nature that is in any way esoteric and that lies beyond the reach of the majority of individuals that do actually participate in social life. After all, the purpose of the GTHSP is to account for the processes that determine the functioning and the constitution of real societies. The claim that the understanding required to participate in social life is 'superficial' is the result of a deep misunderstanding of both the nature of social life as such, and the goals of the science that aims at unveiling its secrets.

An equally serious charge could be that the list of basic qualities has not been put together by following some precise, systematic procedure, but rather rhapsodically, so that there is no certainty that it is either exhaustive or non-arbitrary, for, after all, it might be pregnant with ideological or, simply, ideosyncratic distortions. This argument needs to be answered in three steps. It is perfectly

true that I have not followed a systematic method to establish the basic qualities of human nature. I have not even tried to do so. The qualities have been 'picked up,' not 'deduced.' But this could not be otherwise, the reason being the contingent character of 'human nature.' The pretension that the qualities of human nature can somehow be deduced is based on the assumption that human nature is a necessary entity, where the term necessity is used in a strong metaphysical, rather than in a functional sense. The difference between strong or metaphysical necessity and weak or functional necessity is that, while the first is irreconcilable with the notion of change, the second one is perfectly compatible with it. This is the case because metaphysically necessary entities are so in themselves, while functionally necessary entities are so in relation to something else. God is a good example of the first kind of entity, human nature is a perfect example of the second sort. As a matter of fact, the notion of functional necessity is fairly common in the natural sciences, including biology. Darwinian evolutionary theory, for instance, relies heavily on it. Although basically the products of an accident, the animal species that manage to survive do so because they possess certain qualities that meet the requirements proposed by the environment. These qualities are functionally necessary in relation to the environment. Strictly speaking, then, the 'composition' of human nature cannot be said to be any less contingent than the composition of water. So, pretending that the

composition of human nature can be 'deduced' is, at least, equally misleading as pretending to 'deduce' the composition of water. There is, of course, nothing self-contradictory in such a demand, but establishing it as a prerequisite for the development of social science would put serious and, perhaps, unsurmountable obstacles in its way.

It is obvious, moreover, that if what has been said before were true, the rhapsodic method used here for the discovery of the qualities of human nature, could not be the same employed in reality, since, by assumption, the latter does not allow mistakes in the identification of such qualities. And, indeed, the method is not the same. Like any other theory, the GTHSP has to rely to a great extent on fictions, abstractions and simplifications. After all, that is the way of contemplation. In fact, 'human nature' is not discovered as a result of an act of contemplation, but, rather, in the process of interaction of human beings with each other, a process that involves clashes as well as cooperation, conflict as well as observation. Besides, in real societies, the basic qualities of human nature never appear in 'pure' form, for they are essentially intermingled with those qualities, material or acquired, which underlie the personhood of an individual as defined by a given society. Of course, one could attempt to give a more or less accurate and detailed account of all the factors that intervene in the molding and discovery of 'human nature' in real societies,

a task that would most likely belong to the realm of socio-psychology. But, again, what is important from the point of view of the GTHSP is, merely, establishing a list of qualities that are, in fact, the ones that define human nature. Now however, these qualities are assembled in practice, the final proof that they do indeed constitute the elements of 'human nature' requires a further move, to wit, the proof that they are the substratum for one or more fundamental social functions. And this takes us to the third step in the response to the second objection.

Actually, the ultimate reason why someone might have qualms regarding the contingent character of the qualities that constitute human nature and the rhapsodic method we have utilized to determine them, is a confusion as to the function and status of these qualities. They could wrongly be thought of as being identical with the conditions of possibility of social life. But we have already seen that the fundamental social functions themselves, and not the raw qualities as such, are the only entities deserving that name. The raw qualities or properties of 'human nature,' both those that we predicated of the different individuals in isolation and of the species as a whole, posit some requirements, demands, or needs, thereby determining what could be called 'the prerequisites for human social life,' that is, the set of conditions that have to be satisfied in order to render human social life a feasible enterprise. So, at the end, the final

test as to whether a given perceived quality of human beings is or is not a basic property of human nature, depends upon its being or failing to be a determinant of a prerequisite for human social life.

b. The Nature of the Deduction of the Conditions of Possibility of Social Life.

After traveling in a spiral, we are back to the point where our brief account of the antecedents of the GTSHP ended. The concept proposed here of 'prerequisites for human social life' is similar to the one proposed by F. Aberle et al. in their already quoted article.⁵² There is, nevertheless, a fundamental difference not only in relation to the specific items they want to count as 'functional prerequisites,' but also and most importantly, in regard to the method by which they are determined. Their whole thesis rests on their definition of society as:

. . . a group of human beings sharing a self-sufficient system of action which is capable of existing longer than the life-span of an individual, the group being recruited at least in part by sexual reproduction of the members.⁵³

Given the definition of society, the conditions are enumerated that, if realized, could terminate its existence:⁵⁴ a) the biological extinction or dispersion of the members, b) apathy of the members or cessation of motivation, c) the war of all against all, mostly caused by the prevalence of instrumental or practical considerations over value judgments and, d) the absorption of the society into another

society. This last item is related to the part of the definition that specifies that a society is a "self-sufficient system." It should be perfectly obvious that such a qualification is too restrictive from the perspective of the GTHSP, for which the existence of more than one human society is a merely contingent fact. But let us analyze the other three terminal conditions. In a way, we have already said enough concerning b), and c) when we were attempting to define the notion of relational beings. At that point we saw that multirelational beings of the nature of man can conceivably opt for the negation of the possibility of any relationship. Now, this negation can either be 'active' in which case something like the "war of all against all" would result, or 'passive,' in which case 'apathy' or lack of interest would prevent the development of any kind of social link between two or more humans. So, b) and c) are, in reality, not basic characteristics of human nature, but rather possibilities left open by one of those basic characteristics. Strictly speaking, then, only a) describes a basic characteristic of human nature. Part of the problem with Aberle's thesis is that he and his co-authors fail to draw a clear distinction between the qualities predicable of human nature simpliciter and those predicable of juridical persons. Apathy, for instance, is predicable only of juridical persons, that is, of socialized individuals, insofar as it is not a given quality but one that comes to be as a result of an action, the action of negation. The refusal to establish relations

with other human beings, implies, at the very least, the recognition that this possibility exists and, hence, as we saw before, the exercise of reason in its most elementary but basic sense. To claim that a human being can feel 'apathetic' toward the establishment of social relationships with other human beings, even before he has become aware of the possibility of such relationships is a paradox that rests on the confusion of sheer ignorance with the effective exercise of the faculty of reasoning.

But the method followed by Aberle rests on a further, very subtle mistake: it assumes that the deduction of the conditions of possibility of social life has been completed, even before the basis for that deduction has been set. In a way, Aberle can be said to have proceeded analytically in his efforts to determine the functional preconditions of social life, i.e., by starting with a definition of society, he assumes that the problem is, so to say, solved. But the purpose of the analytical method, when properly employed, is simply to orient the view, to facilitate the task of guessing; by itself, it does not deliver an automatic proof for the correctness of our guesses. In fact, we have no scientific knowledge of the nature of society, until we have deduced its conditions of possibility. The basic characteristics of human nature and the preconditions that they determine do not suffice to define society. All they show, once established, are vague pictures of the kinds of mechanisms

that we can safely expect to find when a society is actually constituted. But, any definition that does not take into account these elements is bound to be arbitrary so that, at the end, things might appear to be necessary or fundamental (v.g. certain 'psychological' qualities) that either are not so at all or are so only circumstantially. The proper way of proceeding is, then, from the qualities of human nature upward towards an enumeration of the conditions of possibility of social life. This path is what we can call the deduction of the fundamental social functions.

"Deduction" is meant here, substantially, in a Kantian sense. As is well-known, according to Kant, there are two kinds of deductions that ought to be distinguished: the metaphysical and the transcendental deductions. The first one aims at the construction of the list of all the categories of the understanding; the second one has the task of showing how, in spite of their a priori character, these categories relate necessarily to the objects of experience. The transcendental deduction is completed by showing or exposing the fact that the categories are conditions of possibility of experience; and thus, by proving that the relationship between the categories and experience is not circumstantial or accidental, but necessary. Kant explicitly rejects as untenable a hypothesis that would suggest a merely subjective relationship between experience and the categories of the understanding; he calls it "Mittelweg" (middle course).⁵⁵ Such a

hypothesis can go in two different directions, either it can assume the form of a sort of Leibnitzian doctrine of pre-established harmony between understanding and experience, in which case the whole purpose of the inquiry undertaken in the Critique is useless, for there would be ex hypothesis, no way for the human intellect to distinguish the objects of "possible experience" from those not belonging to this class; or it can pretend that the link between categories and experience is only subjectively necessary, that is, dependent not on the real constitution of the objects of experience, but solely on the constitution of the human spirit. The kind of necessity that Kant has in mind here is the one that A. Pap⁵⁶ wants to call "self-evidence" or necessity of "the inconceivability of the opposite."

Although this is clearly not the proper place to mingle with the complex problem of elucidating Kant's notion of 'a priori,' a couple of very general remarks would certainly help clarify my intentions in what follows.

There is a very obvious way in which, I suspect, Kant's dismissal of subjective necessity is liable to be misunderstood, for the remarks in B 168 are, if taken in isolation, vague enough to induce the unattentive reader to think that Kant is committed to the thesis that the human understanding is, as such, necessary. Actually, neither the metaphysical nor the transcendental deductions depend in any way upon the assumption that the human understanding could

not have been different. In fact, it is exactly this line of thought that Kant is aiming at in his criticism of the "middle course." Following it means failing to realize that the connection between categories and experience is not, so to say, 'external,' but 'internal,' i.e., that the categories are constituent parts of experience. At the end, the purpose of the transcendental deduction is exhibiting the spontaneity of the understanding.⁵⁷

In a way, though, this deduction is completed only in the Second Critique, when the concept of freedom is finally 'deduced' on the basis of the moral law. Pure reason, insofar as it is spontaneous, must assume itself to be free, i.e., to be outside the chain of causality and thus indeterminate. But this 'autonomy' of reason is what is expressed by the moral law, which exhibits the practical faculty of pure reason, that is, its ability to determine the "will as will," its ability to determine the will according to necessary and universal principles, i.e., laws.

But what interests us the most concerning the utilization of the concept of deduction in the Second Critique is Kant's proof that the moral law as such cannot be 'deduced.' For, insofar as it expresses the 'autonomy' of pure practical reason it is not related to any object of possible experience, i.e., it is, by definition, not a constituent of experience and, hence, cannot be deduced, shown to be necessarily applicable in the material world.⁵⁸ The order of nature that our will seeks to establish when it is determined by the moral law belongs to a supersensuous order. It is only the

eudemistically determined will, the will acting according to maxims dictated by desire, which remains confined to the natural world. This is the origin of the greatest paradox of Kant's philosophy and the kernel of what has many times been called his "ethical formalism." No matter how inefficient it turns out to be, when judged from the perspective of the natural world, the moral law remains immutably valid. Its efficiency can be measured only in regard to its ability to regulate the will insofar as it is pure and not subject to determination by desire. I will try to deal extensively with the questions involved in the discussion of 'ethical formalism' (to use Scheler's term) in the next chapter. Here all that really matters is noticing the consequences this kind of position has in regard to the possibility of deducing the coalitions of possibility of social life.

What above I have called 'functional necessity' would certainly not be recognized by Kant as the necessity properly predicable of categories of any sort that really deserve this name. Those imperatives that are merely 'hypothetical' and not categorical, owe their deficiency to the fact that they are based on a conditioned sort of necessity, a necessity which is not universal, but goal directed: functional. That the categorical imperative does not point at the materialization of any goal in the natural world is clear to Kant from the fact that it has lawful character. Laws do not admit exceptions, thus if the moral law is functional with respect

to some goal or aim this goal or aim must lie in a supersensuous world, in the intelligible, and not in the natural world. The moral law is not what makes human social behavior possible, it is simply what can render it moral. So, once he has made the connection between morality and reason, Kant finds himself incapable of going one step further and uncovering any form of necessary connection between reason, in its moral or practical use, and reality. In fact, what is operating here is the old Christian-rationalistic prejudice. This is the point where Kant betrays his Cartesian roots. Having hypothesized 'reason,' he is bound to regard it as absolutely independent and, particularly, independent from human social behavior. Reasonableness is not a requirement for human behavior, only a moral ideal. Therein lies the paradox of all Rationalism, a paradox that is most visible in its Kantian form. The way I intend to jump this paradox is not by falling into absolute idealism, which is Fichte's option, for instance, but by sticking to a strictly naturalistic outlook. It corresponds to the third chapter, which deals with the principles of generation of actual moral codes, to give the definite proof strictly naturalistic outlook. It corresponds to the third chapter, which deals with the principles of generation of actual moral codes, to give the definite proof of its viability, here again, only its possibility needs to be exhibited.

The deduction of the categories of human social life aims at demonstrating that they are in fact conditions of

possibility of social life, i.e., necessary components of any possible instance of human social behavior. It is obvious that this deduction is possible only insofar as the categories involved are postulated to be material and not merely formal principles, for what we want to know is not how is it that social life in general is possible, but how is it that human social life is possible. That is, our first question is, how is it possible that, given certain physical entities with n properties, they can interrelate and come to form a society. The set n of properties is given. Furthermore, because we deal with material and not with formal principles, the deduction must be, ex hypothesis, at the same time metaphysical and transcendental. Ergo, the establishment of a list of social categories amounts to an exhibition of their character of conditions of possibility of social life.

b. The Deduction of the Conditions of Possibility of Human Social Life

The qualities of humans that we have already selected to serve as the basis for the deduction of the fundamental social functions are the following:

- humans are vulnerable both to their fellow men and to the forces of nature;
- humans lack knowledge when they are born;
- humans are finite and thus can survive as a species only through reproduction;
- humans are multirelational beings.

To take a further step towards the deduction of the fundamental social functions it is indispensable to make an

assumption that can bring these isolated facts together, i.e., the assumption that there is indeed a group of entities interested or willing or ready to form a society.* For only in regard to the formation of a human society is the analysis of these facts revealing and useful, given that, as has been established, they are independent from each other and contingent and, thus, at most operationally 'relateable' to each other, that is to say, 'relateable' only in respect to something exterior to them. As a result of the confrontation of the hypothesis to the facts we can develop a list of 'prerequisites' or 'preconditions' of human social life. That is, of conditions that have to be met by any given group of humans attempting to establish a society.

Given that humans are vulnerable to the action of the forces of nature, it is obviously a precondition for their survival that they develop mechanisms to control, escape, transform or cope with those forces. For, among other things,

* I realize that the words interested, willing, ready are rich in connotations, too rich, as a matter of fact, for our purposes. For they insinuate the existence of certain "pre-meditations" on the part of the prospective members of a human society. Having excluded the hypothesis that this "pre-meditation" could be any kind of rational discourse, the doors are left open for the postulation of some sort of innate pre-discursive social instinct in human beings. Although I very much doubt that such a postulate makes much sense, I would prefer not to take sides on this issue at this point, mostly because I do not think any of this is really necessary. The hypothesis being introduced here should be thought of as a philosophical fiction similar to the fiction of the state of nature. Such fictions have in social theory the same use that fictions like the perfect vacuum or Bohr's model have in physical science.

they need to provide themselves with sufficient nourishment, with shelter so as not to be exposed to drastic changes in temperature or to the 'action of the elements' (lightening, earthquakes, tornados, floods, droughts, etc.). But humans are also vulnerable to the action of animals and their fellow men, thus their survival requires mechanisms that provide for their defense. The vulnerability of humans also requires the adoption of certain elements of hygiene or health care.

Insofar as they lack knowledge and certain abilities at the moment when they are born, mechanisms are necessary, if they are to survive and be able to relate to each other, that allow humans to acquire this knowledge and abilities.* Basically, they need knowledge about their natural environment, human nature, elementary arithmetic and abilities such as the use of language and those that would enable them to make tools and artifacts in general. It is pretty obvious that some of the prerequisites determined by the first quality, vulnerability, are complementary to those determined by this second quality. For instance, the construction of an appropriate shelter demands not only a certain degree of acquaintance with the natural environment, but also the possession

*The question whether humans possess certain innate abilities and/or knowledge can be left open at this stage of the discussion. But I am convinced that any full treatment of the theory of human social praxis would need to examine and develop the concepts of 'cognitive' and 'linguistic' universals. The former being the conditions of possibility of human knowledge and the latter being the conditions of possibility of human language. The study of these universals corresponds respectively to the theory of knowledge and to logic.

of a great deal of technical knowledge. The connection between knowledge and vulnerability is also transparent, satisfaction of the needs for hygiene and health care depend on the knowledge concerning the human body and its functioning.

The finitude of humans requires that reproduction be encouraged and institutionalized as the proper means to perpetuate the possibility of human relations. Actually, reproduction is, in this sense, closely related to the need for health care and hygiene and under certain circumstances both could be seen as different levels of the same function.

Finally, the multirelational character of humans requires the establishment of mechanisms that eliminate or discourage a) the possibility of the materialization of any behavior capable of negating any form of human relationship, and b) the attempt to materialize simultaneously sets of possible behaviors that are mutually exclusive. Among the kinds of behavior included in a) are those that would impede the materialization of all or any one of the preconditions of human social life listed above. In this sense, being the most comprehensive, the prerequisite deriving from the multirelational character of humans is the most basic. But, since the specificity of human nature is determined mostly by the first three qualities, it would be a grave mistake to pretend that all prerequisites can be reduced to this last one. Their organic or operational interdependence in no way

annihilates their independence, for they all act as effective determinants of human social life.

Having deduced the prerequisites of human social life, we are now in a position to take the third and definitive step, that is, to deduce the fundamental social functions which constitute the conditions of possibility of social life. A question could naturally arise at this point concerning the justification of the second step. For it would seem that it is quite possible to jump from the first directly to the one we are about to take. In fact, by having felt compelled to introduce an additional assumption regarding the readiness of a given group of people to establish a society, we have already shown such a jump to be impossible. Neither the qualities of human nature that we have enumerated above, nor any other set of qualities, constitute in themselves, prerequisites of any sort. The shroud, so to speak, has to be woven before we can cover the dead.

In this, like in many other cases, what seems most transparent and immediate is misleading. One could easily assume that having established a set of four prerequisites of human social behavior, all that needs to be done is to find appropriate names for the four fundamental social functions that should correspond to them. The only problem is that there is no reason whatsoever to presume a priori that there is a one to one correspondence between the table of prerequisites and the table of fundamental social functions.

This is something to be settled a posteriori, that is, by carrying out the deduction.

In order to take care of the demands imposed upon them by the prerequisites of social life, a given group of individuals would have to establish among themselves certain kinds of relationships, and discard certain others. As we have already seen, human relationships express themselves as juridical rules, so that the fundamental social functions that we are seeking to define are, in fact, sets of rules or laws. It is quite important to bear this in mind mostly to avoid confusion regarding the notion of 'institution.' Were we to say, for example, that the main role of the institution of the family is to contribute to the materialization of a certain fundamental social function, this in no way would exclude the possibility that, at the same time, the family contributes to the materialization of a different fundamental social function. In this light, the widespread anthropological thesis that in 'primitive' societies most if not all of the social functions of the society are condensed by family relationships, seems fairly plausible. The appearance of highly specialized institutions seems to be a result of technological sophistication, increased division of labor and the bureaucratization that results from that. Although even in these cases, institutions are, as a rule, more complex than they seem at first glance. This explains also why there is nothing surprising if in some very simple societies we

cannot devise anything even vaguely resembling 'institutions' in the current sense of the word. So, again, it is through or by the establishment of human relationships that fundamental and, in general, social functions are materialized. What we want to deduce are, thus, norms.

Now, by simple analysis, we can determine that the first prerequisite of social life demands the creation of at least three basic sorts of norms, to wit, norms establishing productive defense and hygienic relationships among the members of a community. The productive relationships, aimed primarily at the satisfaction of the physiological needs that render humans passively vulnerable, define the fundamental social function of production and are materialized through norms relating to the division of labor, the property relationships, and the administration, exchange and distribution of goods. The fundamental social function of production aims also at the satisfaction of safety needs, much as the construction of shelters, the storage of foodstuffs, etc. The defense relationships define the fundamental social function of defense, which is materialized by rules pertaining to military and hunting activities. Hence, they aim at the satisfaction of those physiological needs that render man actively vulnerable. Finally, the health or hygienic relationships, which define the fundamental social function of health-preservation, are materialized by those norms that have to do with the distribution of space and time in regard to the satisfaction of bodily needs (designation of a

schedule for meals, recreation, and rest; designation of proper areas for micturition, defecation, etc.) with the art of healing, the treatment of the sick, and death, etc.

The second prerequisite of human social life demands the establishment of the fundamental social function of instruction and training. The norms that materialize it create the relationship master-pupil between the adult population of a society and the children or immature portion of the population. To this function correspond the norms underlying the transmission from generation to generation of the accumulated knowledge of the society, the technical and linguistic training of children, the ceremonies of maturation (i.e., those that mark the borders between childhood and maturity). A very important aspect of this social function is the relations that make possible the permanent flow of information between the different individuals and groups of a society.

The third prerequisite of social life, determined by the finitude or mortality of humans, is the ground for the development of norms regulating the mating of individuals, the distribution of responsibilities in regard to the offsprings and the rights and duties deriving thereof. As is obvious, these norms are liable to overlap, to a certain extent, with those defining some of the tasks related to the fundamental social functions of health-preservation and instruction. An adequate name for this function is the fundamental social function of reproduction.

The prerequisite determined by the multirelational character of humans calls for the establishment of the fundamental social function of morality or conductivization. The use of the word 'morality' to designate this social function can, I realize, be a bit misleading, since I want to use the same word to refer to all norms regulating the materialization of fundamental social functions. The reason why I want to use the word in spite of that is, simply, to indicate that this social function is the most general and primary of the four. How exactly these four social functions relate to each other we will see in the next Chapter. Here it is enough to suggest that we try to think of conductivization as a sort of synthesizer. The norms that materialize this function define the most general and basic principles of social life. First and foremost they set socialization as an ideal by proclaiming the need to regulate behavior and thus by laying the foundations for the development of juridical persons. Two kinds of norms are necessary for this purpose: those that demand the exclusion of behavior and that could make impossible the development of any kind of social relationship and those that demand regard for persons. Although the difference may seem arbitrary, it is extremely important to stress it, for demanding regard for persons implies not only prohibiting harm, but urging cooperation. A third kind of norms is required for the full materialization of these social functions, namely, those whose task it is to enforce

a minimum degree of coherence in the socialized behavior of the individuals of a society. As mentioned before, many of the norms that materialize the social function of conductivization receive their matter or contents from the other prerequisites of social life. This fact is the strongest guarantee against any charge of formalism, for it shows with all clarity that the legislative force of the norms that materialize fundamental social functions does not rest on their form, but, mainly, on their contents. It is what they demand, not how they do it, that makes them into conditions of possibility of social life.

So, with the establishment of the list of fundamental social functions, the deduction of the conditions of possibility of human social life has been completed. The elucidation of each of these functions could constitute a dissertation in itself. Here we are going to concentrate our attention on their most general features, on those that define their function in respect to social life. Now, as is plain from what has been said so far, morality could properly be defined as the study of fundamental social norms. But it is obvious that any serious attempt to study morality must concern itself also with the study of non-fundamental norms. Therefore, it is perhaps more fruitful to define morality as the study of social norms in general. And this is precisely the task for the next two chapters.

But viewing moral theory as an appendix of the GTHSP has more implications than one would at first suspect.

Whoever chooses this trial is not only committed to an absolutely naturalistic conception of morality, but, more importantly, expects to be able to account for all axiological problems relating to ethics in the same manner. Last but not least, a theory of social norms, besides exhibiting their peculiar structure, must further clarify the relation that they hold to each other.

CHAPTER I NOTES

¹G. Vico, The New Science (Ithaca, N.Y.: Cornell University Press, 1968) Principles, XI, VII.

²G. Vico, New Science, p. 96 (Principles, 33).

³G. Warnock, The Object of Morality (London: Methuen, 1971) p. 76.

⁴Cf. P. Berger, Pyramids of Sacrifice (New York: Doubleday, 1976) p. 20.

⁵Cf. M. Horkheimer, Critique of Instrumental Reason (New York: Seabury Press, 1976).

⁶Cf. K. Marx, Die deutsche Ideologie (I. Feuerbach) in K. Marx, F. Engels Werke, Band 3. (Berlin: Dietz Verlag, 1958).

⁷L. Feuerbach, The Essence of Christianity (New York: Harpers, 1957).

⁸K. Marx, Thesen über Feuerbach in K. Marx, E. Engels Werke, Band 3, especially 1, 5, 6, 8, 9.

⁹Cf. K. Popper, The Poverty of Historicism (New York: Basic Books, 1960).

¹⁰K. Marx, Die Deutsche Ideologie, p. 21.

¹¹Ibid., p. 21.

¹²Ibid., p. 21.

¹³Ibid., p. 21,

¹⁴K. Marx, Einleitung zur Kritik der Politischen Oekonomie in K. Marx, F. Engels Werke, Band 13, p. 615.

¹⁵Cf. Deutsche Ideologie, p. 71.

Das Verhaeltnis der Produktionskraefte zur Verkehrsform ist das Verhaeltnis der Verkehrsform zur Tätigkeit oder Betaetigung der Individuen. (Die Grundform dieser Betaetigung ist natuerlich die materiale, von der alle andre geistige, politische, religioese, etc abhaengt. Die verschiedene Gestaltung des materialen Lebens ist natuerlich jedesmal abhaengig von den schon entwickelten Beduerfnissen, und sowohl die Erzeugung wie die Befriedigung dieser Bedürfnisse ist selbst ein historischer Prozess, der sich bei keinem Schafe oder Hunde findet (...), obwohl Schafe und Hunde in ihrer jetzigen Gestalt allerdings, aber malgre eaux, Produkte eines historischen Prozesses sind.)

¹⁶Cf. MEGA, I, 3, p. 84.

¹⁷Cf. MEGA, I, 3, p. 86.

¹⁸Cf. Deutsche Ideologie

So sehr ist diese Taetigkeit, dieses fortwaehrende sinnliche Arbeiten und Schaffen, diese Produktion die Grundlage der ganzen sinnlinchen Welt, wie sie jetzt existiert, dass, wenn, sie auch nur fuer ain Jahr unterbrachen wuerde, Feuerbach eine ungeheurige Veraenderung nicht nur in der materillen Welt vorfinden, sondern auch den ganzen Menschen Welt und sein eigenes Anschauungsvermogen ja seine Eigne Existenz sehr bald vermissen wuerde. Allerdings bleibt dabei die Prioritaet der Nusseren Natur bestehen, und allerdings hat dies alles keine Anwendung auf die urspruenglichen, durch generatio aequivoca erzeugten Menschen; aber diese Unterscheidung hat nur insofern Sinn, als man den Menschen als von der Natur unterscheiden betrachtet. Uebrigens ist diese der menschlichen Geschichte vorhergehende Natur ja nicht die Natur, in der Feuerbach lebt, nicht die Natur, die heutzutage, ausgenommen etwa auf einseinen australischen Koralleninseln neuren Ursprungs, nirgens mehr existiert, also auch fuer Feuerbach nicht existiert.

¹⁹B. Malinowski, A Scientific Theory of Culture and Other Essays (New York: Oxford University Press, 1960) p. 37; see also p. 36.

²⁰B. Malinowski, A Scientific Theory, p. 19.

²¹Ibid., p. 36; see also p. 52.

²²Ibid., pp. 49, 50.

²³For an interesting contemporary discussion of the problem of needs from a Marxist point of view cf. Agnes Heller, "Theory and Practice: Their Relation to Human Needs" in Social Praxis, vol 1, N. 4 (1974) pp. 359-373; cf. also J. Reykowski, "Human Nature and Needs" in Dialectics and Humanism, N. 3 (1974) pp. 103-113.

²⁴Malinowski, A Scientific Theory, pp. 76, 79, 82.

²⁵Ibid., pp. 89-90.

As opposed to motive, therefore, we speak of needs. This term we shall predicate not with reference to an individual organism, but rather for the community and its culture as a whole. By need, then, I understand the system of conditions in the human organism, in cultural setting, and in the relation of both to the natural environment, which are sufficient and necessary for the survival of group and organism. A need, therefore, is the limiting set of facts. Habits and their motivations, the learned responses and the foundations of organization, must be so arranged as to allow the basic needs to be satisfied.

²⁶Cf. "Functionalism: A Protest" in American Anthropologist 51 (1949) pp. 320-22.

²⁷Anthropologie structurale (Paris: Librairie Plon, 1958) p. 17.

²⁸D. F. Aberle et al., "The Functional Prerequisites of Society," Ethics, vol. LX 2 (Jan 1950) p. 100.

²⁹Cf. T. Parsons, "Malinowski and the Theory of Social Systems" in R. Firth (ed.) Man and Culture. An Evaluation of the Work of B. Malinowski (New York: Harper and Row, 1957) pp. 53-70. For a more complete exposition of Parsons' views cf. The Social System. (Glencoe, Il.: The Free Press, 1951.)

³⁰Cf. the works on these topics by A. Maslow, G. Allport, and H. A. Murray.

³¹The Division of Labor in Society (Glencoe, Ill: The Free Press, 1949) p. 71.

³²For an example of a recent attempt to deduce cultural universals on the basis of an extreme empiricist method, cf. Thorne Devel, The Human Factor in the Behavior of Peoples. Scientific Papers. (Springfield, Il.; Illinois State Museum, 1971).

³³Durkheim, The Division of Labor, p. 70 ff.

³⁴H.L.A. Hart, The Concept of Law (Oxford: Clarendon Press, 1961).

³⁵L. Brunshvieg, Le progrès de la conscience dans la philosophie occidentale (Paris, Presses Universitaires de France, 1952-53).

³⁶M. Mauss, "Une catégorie de l'esprit humain: la notion de personne et celle de 'moi'" in Sociologie et anthropologie (Paris: PUF., 1968) pp. 331-361.

³⁷Almost any good treatise on Jurisprudence is bound to include an extensive section dealing with the notion of 'legal person,' I find that del Vecchio's treatment in his "Lezioni di Filosofia del diritto" (Milano, Dott. A. Giuffrè, 1953) is particularly useful and serious. M. L. von Carolsfeld, Geschichte der Juristischen Person is a good classical presentation of the historical evolution of the notion.

³⁸General Theory of Law and State (Cambridge, Mass.: Harvard University Press, 1945) p. 93.

³⁹Cf. R. Jhering, Law as a Means to an End (Boston: The Boston Book Company, 1913).

⁴⁰Ibid., pp. 94-95.

⁴¹Ibid., p. 94.

⁴²I qualify this statement because it is obvious that it does not apply to someone like Hart, who sees some connection between basic human needs and the legal order.

⁴³Cf. Die Judische Frage in MEGA, Vol. 1, pp. 576-606.

⁴⁴"Law and the Concept of Person," Philosophy in Context. Vol. 3 (1973) p. 49.

⁴⁵H. J. McCloskey, "Human Needs, Rights and Political Values." American Philosophical Quarterly. Vol. 13, N. 1 (Jan. 1976) pp. 1-11.

⁴⁶Ibid., p. 2.

⁴⁷A. H. Maslow, Motivation and Personality (New York: Harper and Brothers, 1954) p. 81.

⁴⁸Ibid., p. 71.

⁴⁹Malinowski, A Scientific Theory of Culture, pp. 75-84.

⁵⁰Ibid., p. 91.

⁵¹Simone de Beauvoir, The Ethics of Ambiguity (New Jersey: The Citadel Press, 1972).

⁵²Aberle et al., The Functional Prerequisites of a Society, p. 101.

⁵³Ibid., p. 101.

⁵⁴Ibid., p. 103-104.

⁵⁵I. Kant, Critique of Pure Reason, trans. N. Kemp Smith (New York: MacMillan, 1968) s. 27, B 168.

⁵⁶A. Pap, "The Different Kinds of A Priori." The Philosophical Review, Vol. LIII, N. 5 (1944) pp. 465-484.

⁵⁷In the Critique of Practical Reason, trans. L. W. Beck (Chicago, Ill: The University of Chicago Press, 1950), Kant deals explicitly with some of the questions that could be raised in relation to the nature of 'necessity' by pointing out the contingent character of human reason. Without attempting to attribute necessity to human reason, Kant responds to the argument that there is no inherent contradiction in imagining the existence of rational beings whose mechanisms of representation are different from those of humans, by saying that precisely because we do not know of the existence of any "rational beings other than men, we have the right only to assume them to be of the same nature as we know ourselves to be, and therefore we really know them." (p. 127).

⁵⁸Cf. Kant, Critique of Practical Reason, pp. 156-158.

CHAPTER II

THE BASIC SOCIAL FUNCTION OF MORALITY

1. Preliminary Remarks

a. Morality and Law

Before attempting to analyze more closely the nature of morality and deduce the fundamental moral norms, it is perhaps necessary to examine an issue of great relevance for traditional philosophers: the relation between law and morals. So far I have been working on the assumption that, at least at the level of the GTHSP, there is no distinction to be made between moral and legal norms. Here I will try to explain why I think this to be the case.

Most, if not all writers, agree that the distinction between law, morals and custom is not a 'natural' one, in the sense that it is not something that comes with society, but rather develops as the result of various social and economic changes. Certainly, there is no lack of anthropological and historical evidence to this effect. Not even the procedures that we usually identify with the administration of law are natural. In an important sense they too have to be 'discovered.' L. Fuller¹ refers to a paper by M. Mead to illustrate this point. There she explains how the Manus 'learned' from the Australians that litigations can be solved by adjudication. The gruesome descriptions in the Niebelungen Lied of the

fight between Huns and Germans are, according to some critics, not only a secret plea for Christian caritas, but also an illustration of the senselessness and obvious disadvantages of institutionalized revenge.

Confronted with the question we are dealing with, some authors will claim that law and morals are in opposition to each other, some that they complement each other and some that they are or, at least, ought to be independent from each other.

In a way, Hegel is a proponent of the first thesis. Reflecting the narrow circle of interests of the familiar group and in spite of its divine origin, the moral law inevitably clashes with the law of the state, earthly in origin and universal in scope. Behind the opposition of law and morals is the opposition of the concrete individual, as perceived through the network of family relationships, and the abstract juridical person which is the subject of Roman Law, that is to say, the opposition between 'innate' and 'conferred' rights.

The most lucid defenders of the third thesis are, I suppose, the members of the Analytical School or, as they are also called, the Legal Positivists. Laws being rules or norms to which a penalty is attached, derive their validity from the power of the legislator who established them to ensure their enforcement. Although it would be misleading to call him a Legal Positivist, Durkheim proposes a similar definition of law distinguishing it from morality by the fact that the

infringement of moral commands carries only a non-institutionalized condemnation by the members of the community.² But there is a fundamental difference between Durkheim and Austin or Kelsen, for while for the Frenchman even the most sophisticated varieties of civil law are expressions of the same needs that determine primitive morality, both corresponding to different stages in the development of the division of labor, for the latter law is a self-contained, self-sufficient reality which, in its most advanced manifestations, is wholly independent from morality. Seen from the narrow perspective of the positivists, neither the fact that legal and moral rules tend to overlap, nor the fact that morality is often the source of law are particularly revealing, at most, the interference of morality in the province of law appears to them as a mark of imperfection.

Historically, the second thesis has been more fecund. In different ways it has been maintained by the adherents of the school of Natural Law, by some of the jurists of what Pound calls the Historical School and by many a contemporary theoretician who, contrary to the Positivists and more sensitive to the demands of science, has chosen to explain rather than to dismiss as unimportant some of the most remarkable phenomena of human social life. To this group belong L. Fuller and H.L.A. Hart. Although not all those that have been mentioned would subscribe to the extreme motto that an immoral law is no law, they all share the belief that the most

fundamental forms of law must conform to the fundamental demands of morality; what these are is, again, a matter of dispute.

There is a line of argument that surprisingly few philosophers have chosen to pursue that, nevertheless, I take to be the proper one to clarify the relationship that concerns us now. For although most agree that the separation between morality and law took place at a certain stage in the history of the West, they do not attempt to find an explanation for this bifurcation in history. I think that treating this issue as a matter for mere logical clarification is entering a blind alley. That kind of analysis is useful only as a second instance, after the socio-economic and ideological background of the issue has been thoroughly revealed. Here too the puerility of those who in the name of science choose to shrink their sight and their understanding has proven fatal. So, before embarking on a discussion of the merits and demerits of the different theories mentioned above, let us observe some historical facts.

R. Pound³ has perceptively noticed that the separation between law and morals becomes particularly indispensable when dealing with "rules of property, rules as to commercial transactions, the rules that maintain the security of acquisitions. . . ." Partly unaware of the full implications of his statement, Pound chose to believe that in relation to this particular area of law perhaps the Positivists have a good point to

make. But surely his conclusion would have been different, had he paid more attention to another relevant historical fact, to wit, the fact that the demand for a strict separation between law and morals was especially strong during the period of consolidation of capitalism.

There are really few aspects of the history of capitalism more revealing than the evolution of bourgeois jurisprudence. In its heroic, revolutionary stage, the bourgeoisie adhered strictly to a theory of natural law. Locke, Paine and Rousseau are magnificent exponents of that period. I would think that two separate factors explain this phenomenon. The first is, like Pound has also noticed, rather universal.⁴ In what he calls "periods of growth" morality is often seen as a source of law. Aspirations, hopes, ideals are translated into 'moral language' as an attempt to stress their legitimacy. In a way, the language of revolution is necessarily 'moral,' insofar as the goal of a revolution is the bringing about of a state of affairs viewed as just and equitable. The purely 'objective,' that is, to use the more or less ridiculous term popular among social scientists, the 'value free' exhibition of the evils of a society is of no consequence for revolutionaries. Revolutionary denunciation, to be effective, must be not only objective, but also righteous, morally loaded. Only soulless bureaucrats can be interested in 'value free' descriptions of social affairs. Revolutionaries must wait to be in power to become soulless.

The endowment of a moral character upon revolutionary ideals accomplishes at least two important things, it covers these ideals with the forceful sense of necessity proper of the moral 'ought' and, thus, purifies them of any suspicion of arbitrariness, while at the same time marking them with the seal of universality. In their universal appearance, ideals seem desirable in themselves, inherently good, or, in real terms, classless. This classlessness, in the case of the bourgeois revolution, was achieved at the price of a high degree of vacuous formalism. Stretched to their maximum, the ideals of liberty, fraternity and equality were temporarily able to accommodate the aspirations of all classes, though only to leave the most numerous of them gnawing at their frustrations.

At this point we can securely introduce the second factor that, I think, explains why the bourgeoisie adhered initially to a doctrine of Natural Law. It has to do with the conception of man akin to capitalism. From Luther through Descartes, and Locke to Kant, man appears as an isolated, self-sufficient individual, endowed with enough Grace to be able to communicate directly with God, with enough Reason to discern truth from falsehood, with enough Sense to recognize the proper path of justice and, most importantly, with enough Autonomy to act as a legislator. From this inherent dignity of man certain rights emerge that must serve as a basis of law in any free society. Being innate, these rights are natural. In the heroic period it was this aspect of the conception of man that

was emphasized, the other half of the conception, that of man as partly irrational, impulsive and selfish was consistently downplayed. This situation did not last very long, however. Very soon after its triumph, the inherent contradictions of its conception of man became an obstacle for the bourgeoisie. The attempts to enforce the law, and particularly the laws of property, required that the dignity of many a man be stepped on. Suddenly morality became a nuisance, for its precepts seemed to be incompatible with the objective demands and needs of society, primarily, the need to subject to law (to a law that could be enforced, that is), the animal nature of man. To preserve the rights of a citizen, many men had to be allowed to starve. But this required that law be imposed over morality. Law no longer emerged from within, it was no more a command of reason or consciousness, it was a command of the state backed by the force of the state. The law had to become blind, at the very least blind to the demands of morality. It was then in order to preserve inequality that all law was proclaimed to be positive law.

Marx concerned himself with this contradiction of bourgeois ideology in a brief article entitled "Zur Judenfrage."⁵ There he sees the contradiction inscribed in the very title of the "Declaration of the Rights of Man." In its French version, Marx notices, the rights of man, proper, "les droits de l'homme" are distinguished from the "les droits du citoyen," where 'man' turns out to be a real human being of

flesh and bones, the real bourgeois with his needs and aspirations, while the citoyen is a legal fiction, that is, man as a subject of law. Underneath this dualism is the opposition between the 'political state' and the 'bourgeois society.' In his actions, the former, that in theory is supposed to exist only as a means to insure that the 'droits de l'homme' are preserved, cannot but limit them. Proclaiming as its goal the freedom of the press, it has to deny it in reality for the sake of 'public welfare,' etc. The contradiction will be abolished, according to Marx, when the purely political emancipation achieved by the bourgeois revolution gives way to the total emancipation of man, which Marx characterizes as follows:

Political emancipation is the reduction of man, on the one hand, to the member of bourgeois society, to the egoistic, independent individual, on the other hand to the citizen, to the moral person.

Only when the real individual man has reabsorbed the citizen and has become a generic being as an individual man in his empirical life, in his individual work, in his individual relations, only when man has recognized and organized his 'forces propres' as social forces and therefore does not alienate from himself these social forces in the form of political force, only then is human emancipation completed.⁶

Now, this view is grounded on the assumption that the ideological perception of man proper to the bourgeoisie, is based not on a failure to recognize the different aspects of humanity, but rather on the isolated, abstract perception of each of these aspects. With this view, as can be inferred from what has been said so far, I partially disagree. More than schizophrenic, the bourgeois conception of man is plainly unilateral. The attribution of a 'social' sphere to human essence is only

accidental. At the end, the social realm of human life is reduced to the blind application of brute force. This is the real end of bourgeois 'political emancipation.'

In what amounts to an ex post facto legitimization of its world view, bourgeois philosophy has proclaimed, since the XIX century, a new conception of man, which emphasizes mostly his 'animal' nature. This 'scientific' conception, which finds its most recent expression in the narrowness of Behaviorism, has deprived man of all rationality and, thus, has placed him beyond 'dignity,' that is, beyond morality. Turned into a brute, man has lost his capacity to communicate with God and to legislate autonomously, and has to be 'trained' to live according to law, for law is absolutely alien or external to him. At the end, the bourgeoisie seeks to abolish or, at least, weaken morality. For that it has traditionally had a good weapon in its atomistic conception of man, and in its philosophical counterpart, 'Relativism.' If the existence of objective and universal moral standards is denied, and the individual's consciousness or, simply, opinion is posited as the sole measurement of goodness, then the force of all moral condemnation is annihilated. Moral statements become 'opinions,' expressions of mere subjective preferences, as the Emotivists will have it, and since all opinions are equal in worth, nothing distinguishes the preferences of the exploiter from those of the exploited.* Kelsen, the most lucid

* What we are postulating here is, in the last instance, the existence of a necessary connection between Subjectivism,

representative of contemporary Legal Positivism, has clearly shown the consequences of that kind of approach for legal theory:

Emotivism and certain forms of Relativism. Actually, I think that Emotivism is best described as an instance or a species of Subjectivism, given that Subjectivism, in its more general sense, is the position according to which there is no objective counterpart, either material or theoretical, to any moral judgement, such that that counterpart is publicly accessible in an immediate manner, i.e., without the mediation of the individual making the moral judgement. Emotivism, which claims that moral utterances express nothing more than the feelings of the people who utter them, as they are experiences by these people, fits perfectly the mold of Subjectivism. The possible argument against our definition of Subjectivism, that a position like a Realist Subjectivism is possible, is taken care of by the qualification that, according to the Subjectivists, the content of moral utterances, whether real or not, is not immediately accessible to 'other minds.' For, insofar as we are dealing with a truly Subjectivist position, and whatever the content of moral judgements might be, it must be a quality of the person making the judgement and, hence, this person must be thought of as being in a privileged position regarding the possibilities of apprehending that quality.

Now, in a sense, all Subjectivism is necessarily Relativist, unless, of course, one wants to postulate a doctrine that could be described as 'mental parallelism,' that is, a doctrine according to which, for some reason or other, there is always a perfect synchronization between the events taking place in the mind of a person making a moral judgement and those taking place in the minds of all the persons that comprehend that judgement. The refutation of such a, fortunately, imaginary doctrine, would certainly not be a demanding task. For it is obvious that in terms of such a hypothesis there is no way of accounting for differences in moral opinions, while at the same time explaining how moral judgements with which we do not agree, are understood by us. It is clearly contradictory to assert, at the same time, that I am experiencing moral indignation, but that in fact I do not regard the event that prompts that indignation as immoral.

To sum up, then, what the subjectivization of morality expressed by theories such as Emotivism accomplishes is the reduction of moral judgement to the status of 'point of view,' i.e., it makes the validity of the moral statements of individuals dependent upon the specific and temporary circumstances surrounding their utterance.

On the other hand, it is not the case that all Relativism is Subjectivist. Conventionalism, which is undeniably

It is self-evident that a purely relative morality cannot--either consciously or unconsciously--perform the required function of furnishing an absolute standard for the evaluation of a positive legal order. Such a standard is not in fact to be had by way of scientific knowledge. This does not mean, however, that there is no standard at all. Every moral system can serve as such a standard. But if the framework of a positive legal order is to be judged 'morally,' it is necessary to bear in mind that the standard is a relative one, that another evaluation on the basis of another moral system is not excluded; that if a legal order is reckoned unjust by the standard of one moral⁷ system, it can be reckoned just by the standard of another.

Before, Kelsen has already told us that all law is good;⁸

"For the concept of 'goodness' can only be defined as that which 'ought to be,' as that which accords with a norm; and if law

a species of Relativism, is not necessarily a form of Subjectivism, for example. But in fact, and even if we grant this, not only will our previous argument remain unaffected, but, moreover, it can be shown that for all practical purposes, Conventionalism can be made to play the same role in the consciousness of the bourgeoisie. Without engaging in a long and detailed discussion of Conventionalism, which neither can nor should we undertake at this point, let us briefly consider some of the ideological consequences of Conventionalism. (For a treatment of related problems from a different point of view see Chapter II,1,b, particularly the discussion of Downie's theses.)

Behind all kinds of Conventionalism looms the conviction that it is materially and theoretically impossible to find a point of reference firm enough so as to allow the generation of a set of norms valid for all times and places. But more sophisticated than the average Subjectivist, the Conventionalist does not want to deny or ignore the fact that some degree of interpersonal agreement concerning a variety of moral issues does in fact exist in all societies. He does not want to succumb to defeatism either, by explaining away such agreements as the result of accident. So, he cleverly attributes them to an agreement in the way the world, the circumstances or conditions of existence of the collectivity are perceived. There are two major faults with this type of Conventionalism, to wit, that it denies the existence of human nature and, consequently, deprives itself from the possibility of explaining its specificity; and that it commits what we could call the Ptolomeic Fallacy, i.e., the fallacy of believing that basic norms can be derived from the qualities of the environment.

is defined as a norm, this implies that what is lawful is a good." So, regardless of whether a law is good in itself or good only for two out of four million citizens, the fact that it is enforced makes it a sort of good. At the end, the only thing that counts is the rule of law, even if it takes place without the rule of justice.

In spite of some isolated useful distinctions that the Positivists have been able to make, the bulk of their legal theory can be dismissed, I think, as mere ideology. In no way does it help to clarify the real relationship between law and morals. To do that, we have to turn to the analysis of the group of legal theories that accept at least the partial dependency of law on morals.

A popular view in this respect is the one that originated in the writings of Christian Thomasius⁹ and was developed in our time by G. del Vecchio.¹⁰ According to it, the basic demands of law and morality are the same only that morality, being in del Vecchio's terms "subjective" in character, has as its object the demands that the individual places on himself, while law, being "objective" in character, is concerned with the demands placed on the individual in the course of his relationships with his fellow men. In this sense, morality, subjective morality, that is, cannot be enforced. Although this view has the advantage of leaving the door open for the moral criticism of law, and thus is fundamentally incompatible with any attempt to identify the rule of law with the exercise

of force, it does not provide an adequate explanation for the fact that not 'all' principles of morality are principles of law, that is, it fails to offer a precise criterion of demarcation between subjective and objective morality. Morality, governing the forum internum, does not need to be codified and can thus remain "indefinite, vague" while law, governing the forum externum, has to be more precise, particularly because it regulates those actions or behaviors that make life in society possible:

Should we wish to use another metaphor, we could say that Law is the backbone of the social body, or of the ethical organism. More simply it can be said that law is the part of Ethics which establishes the basis of coexistence between several individuals. Consequently, without law one could not even conceive of a society. Ubi societas, ibi jus. Since ubi homo, ibi societas, we can conclude, Ubi homo, ubi jus.¹¹

The syllogism is, according to what we have established in the previous chapter, perfectly true. Only that in the context of del Vecchio's juridical thought it is arbitrary, for nowhere does he offer a clear method by which those moral principles can be deduced that must also be expressed as laws.

Somewhat in the same line of reasoning is Georg Jellinek's well-known doctrine according to which law is a sort of ethical or moral minimum (ethischen Minimums).¹² He not only rejects explicitly the dualism that del Vecchio seeks to moderate, but, assuming the viewpoint of 'social ethics,' which he contrasts to 'individual ethics,' he attempts to explain both morality and law taking into account their function in the social body. Also, and in spite of the fact that his reasons

for doing so (i.e., the attempt to apply to the human sciences the methods of the natural sciences), are, to say the least, rather shaky, Jellinek adopts a thoroughly naturalistic approach to the study of legal phenomena, setting as the starting point of his speculations the same one adopted in this thesis, to wit, the human being of 'flesh and bones.' From that, and by postulating the existence of certain 'natural' drives (egoistic and altruistic drives), and natural demands of social existence, he proposes the following definition of law:

We have recognized as the objective content of ethics, those norms that demand realization by the human will, and that derive from the existence and development requirements of society. When, given a determinate historical stage of a society, we ask for those norms, which, if followed, would make possible the subsistence of that state of affairs, then we obtain the law of that society. The law is nothing but the ethical minimum. Objectively it is the subsistence conditions of society, and also the subsistence minimum of ethical norms, subjectively it is the minimum moral and emotional demands required from the members of society.¹³

Although this ethical minimum is variable and depends on historical circumstances, there is a small portion of it that Jellinek recognizes as permanent. This portion constitutes the "eternal, absolute law" and comprises all the norms without which "not even the most primitive variety of human social life is imaginable."¹⁴

Such a basically correct intuition of the nature of morality is marred by the same deficiency as del Vecchio's view, to wit, the failure to specify a criterion for determining the norms that constitute "eternal or absolute law." Also, Jellinek leaves unclarified the functional relationship

between morals and law in complex societies. Nothing of what he says would help us settle an argument about the proper limits for what some modern writers call the 'legislation of morality.'

H.L.A. Hart has attempted to solve these deficiencies in his book the Concept of Law. To deal with the first one, he proposes a list of five "obvious truisms" which describe some characteristics of human beings that have to be taken into account if "survival," according to Hart, the main and primary purpose of human activity, is to be possible. We will deal with these truisms in a later section of this paper. What interests us now is the general form of the argument insofar as it can help clarify Hart's opinion on the relationship between law and morals. Once these elementary facts of human nature have been determined, one can naturally deduce from them, Hart claims, certain "universally recognized principles of conduct" which constitute the "minimum content of Natural Law."¹⁵ Among such "rules of conduct that any social organization must contain if it is to be viable," are those prohibiting the use of violence, and those requiring truthfulness, fair dealing, and respect for persons.

Whether we agree in detail with his account of the "minimum content of law" or not, we have to recognize, in view of what has been said in the first chapter, that Hart has adopted the proper approach for the solution of the question. The enumeration of a set of basic social rules is the only way

out from the paralyzing vagueness of positions like those of del Vecchio and Jellinek. Obviously, once this has been done, the second question, i.e., the one regarding the functional relationship of law and morals, is at least partially solved, for we know in which cases the demands of both have to coincide. We still do not know, however, why it is that in complex societies some, but not all moral convictions give rise to law. Hart's mild theory of social contract constitutes the basis of his attempt to solve that issue.

"Authority," Hart claims, originates in the voluntary assent by a group of individuals both to accept a "system of mutual forbearances" and to establish a system of cooperation for sanctioning violators. Now, in societies where all or the majority of members agree voluntarily to abide by the terms of the contract a centralized apparatus for the enforcement of rules determining obligations and forbearances is not necessary. Such an apparatus, that is, a "legal form of control" is required, on the other hand, in societies where some or many individuals view themselves as victims rather than beneficiaries of the legal system.

Again, in general, I cannot but agree with the spirit of this argument. The agreement, though, cannot be so absolute when the difficulties that Hart encounters when confronted with the task of elucidating in detail the influence of morals on law, are taken into account. His troubles are particularly visible in the course of his polemic¹⁶ with P. Devlin regarding the question of the 'legislation of morals.' To refute

Devlin's archconservative thesis that the state has, under certain circumstances, the right to legislate in matters concerning sexual behavior considered by a majority of individuals to be 'deviant,' Hart has to resort to the classical bourgeois conception of man and his relation to society. Carefully following Mill, Hart argues that, in principle, legislation is admissible only as a means to reduce the danger that one man's behavior may posit to another man's 'natural rights,' so that no legislation is justifiable when the stated purpose of such legislation is the protection of an individual against harm inflicted by himself.

What is wrong with this thesis is not that it proposes a limit, and a fairly strict one, for that matter, to the legislation of morals, but rather that it rests on a view of law, according to which the legislation properly or legitimately derived from the moral minimum promotes cooperation among men only by positing limits to their behavior by means of a system of forbearances. In fact, as we shall see in detail in what follows, only some, few indeed, of the norms connected with the materialization of fundamental social functions are of this type. In reality most of them are incorporated into penal law. But there are many basic rules, such as those relating to the materialization of the basic functions of production and education that aim at something more than at establishing a system of forbearances or at designating officials. So, incapable of accounting for the nexus between

law and morality beyond a very limited number of cases, Hart has to dismiss the majority of them as either too obvious and trivial to deserve an explanation¹⁷ or as arbitrary and subject to historical change. In fact, it is because he has no way of explaining sexual morality on the basis of his doctrine of the "minimum content of law" that Hart must rely on Mill's abstractions to defend homosexuals against repression. And it is because he cannot see civil law as partially mirroring the demands of certain basic social functions that the fact that "the prevailing views of moral responsibility" interfere with legal processes involving this sort of law, appear to him obvious but unexplained.

I see L. Fuller's already quoted book* as part of an attempt to enrich Hart's notions of morality and law. According to Fuller two kinds of moralities can be distinguished: the morality of duty and the morality of aspiration. The role of the former is to achieve what Hart's "minimum content of law" is supposed to achieve, that is, to "lay down the basic rules without which an ordered society is impossible, or without which an ordered society directed towards certain specific goals must fail its work."¹⁸ What these rules are, Fuller does not bother to inform us. He tells us only that, from the perspective of legal science, they can be classed as pertaining to the "external morality of law," that is, they belong to

* See note 1.

the group of rules to which a legal system has to conform not qua legal system, but qua system of norms generaliter.

The morality of aspiration, on the other hand, is characterized by Fuller in the following terms:

The morality of aspiration is most plainly exemplified in Greek philosophy. It is the morality of the Good Life, of excellence, of the fullest realization of human powers, . . . Generally with the Greeks instead of ideas of right and wrong, of moral claim and moral duty, we have rather the conception of proper and fitting conduct, conduct as beseems a human being functioning at his best.¹⁹

Starting "at the top of human achievement" the morality of aspiration posits ideals, speaking more of desirable, than of necessary behavior. This, according to Fuller, makes the transition from it to legislation rather difficult, since it is not easy to "create . . . the sufficient conditions . . . for a rational human existence." Clearly, this transition is smooth in the case of the morality of duty, where all that has to be done is to give a 'legal' formulation to necessary moral principles. Legislation regarding an ideal, though, tends by nature to be more an exhortation than a command. But in spite of all these difficulties, it is the morality of aspiration and not the morality of duty, that is the most relevant from the point of view of legal science. In Fuller's opinion, the moral content pertaining to law proper, and not as a system of norms in general, has the form of a morality of aspiration. Fuller calls it the "inner morality of law," and the eight principles that constitute its core are a kind of "procedural version of natural law."

Actually, Fuller follows a method similar to the one followed by Abele et al. to determine the prerequisites of social life, in order to deduce the basic principles of "inner morality." Having enumerated the eight ways in which a system of law is liable to go wrong, he concludes that the basic principles of legality are precisely those that aim at avoiding one or more of the eight "disasters."²⁰ At this point, we really do not need to discuss the eight principles of "inner morality" in detail. What interests us is the general argument behind Fuller's conception. Two issues are especially important in this respect, on the one hand, the claim that these principles define what could be called the conditions of possibility of legality and, on the other hand, the fact that, having the form of a morality of aspiration, the "inner morality of law" does not simply propose a network of forbearances, but rather a complex of "affirmative demands."

The first claim rests on the assumption that legality or law^{*} constitutes a more or less well-defined and independent entity or, actually, a process or activity that Fuller defines as "the enterprise of subjecting human conduct to the governance of rules."²¹ Given that it is independent from other forms of social action, legality is not necessarily present in all societies, but those in which it is present are, Fuller

* I think that the word 'legality' reflects better the dynamic character that Fuller attributes to law, than the word law itself.

says, superior not only in the sense that they turn out to be more "efficient" mostly because they allow the individual a greater degree of security and mobility, but, most importantly, in the sense that they have attained a higher degree of justice. The exercise of legality, then, is not God-given, but rather an historical acquisition, an invention. It is this conception of legality that leads Fuller to underscore or minimize the role of the "external morality of law." The reason is that he has to account, if only vaguely, for the fact, implied in his theory, that some societies have survived and, possibly, survive still with the exclusive aid of morality, of the external forms of morality, that is. Furthermore, it seems to me that Fuller wants to be able to claim that in a society where the inner morality of law has been fully realized, there can be no conflict between morality and law in the usual sense. Or, to put it differently, in such a society the limits of legislation would be clearly drawn. This is the lesson, I suppose, that we are to learn from Fuller's dismissal of the Hart-Devlin controversy as a mere misunderstanding. In effect, Fuller claims, the reason why the laws attempting to regulate homosexual practices are unacceptable is, simply, that they are unenforceable and hence not rules at all, for, as we have seen, it is one of the conditions of possibility of legal rules that they be enforceable.

In spite of their ingenuity, and even if they are partially true, these arguments tend to blur the issue more than they clarify it. For even if we grant, like most people

probably would, that legality is an invention, this still leaves the question open as to why such an invention is necessary in some societies and not in others. To point out some of the practical advantages of settling disputes by legislation rather than through butchery is not enough of an explanation. Neither can we be satisfied with Fuller's attempt to beg the issue by postulating the inherent goodness or morality of law, for whether he likes it or not, Hart's assertion that the "inner morality of law" is "unfortunately compatible with very great iniquity,"²² is perfectly true. If Hitler, whom Fuller criticizes mostly because he failed to make his laws public and because he had a tendency to abuse the enactment of retrospective laws, had complied with these principles of the "inner morality of law," Fuller would now have a very difficult time condemning his antisemitic legislation.

Things are not at all facilitated by the claim that the inner morality of law is a variety of the morality of aspiration, which requires a set of "affirmative demands" for its materialization. In the first place, as Fuller himself recognizes, the line between duty and aspiration is extremely thin even in the most elementary cases. It is quite difficult to see, for example, how the duty to restrain from killing a fellow man differs from the affirmative demand to respect him.

Later on in this chapter we will see that this distinction, insofar as it can be made at all, must be drawn in terms of certain types of virtues, and does not depend on the

intuition of people. Furthermore, as we will hopefully also see later on, obligations or duties are predictable only of persons, and the recognition of someone as such implies a certain amount of regard for him that goes beyond any simple utilitarian calculation. This last fact is not so irrelevant, particularly if one takes into account that the materialization of fundamental moral norms is perfectly compatible with the institutionalization of inequalities and, even, with the denial of the quality of personhood to many individuals. After all, Fuller must be partly aware of this for he nowhere claims that a legal system must have universal applicability to deserve being considered as such; nowhere does he say that universal love is a prerequisite of legality.

At the end, one can say both of Hart and Fuller that they have not gone far enough in their rejection of positivism. Both, but particularly Fuller, remain trapped by a formalist conception of law.

So far, we have concluded that the origin of the discussion of the relation between law and morals in the West is to be found in the concrete political needs generated by the historical development of the bourgeoisie. These needs have colored all the appearances this discussion has taken. Because of the need to impose its rule by sheer force, the bourgeoisie had to postulate the independence of law from morality. Not doing that would have been leaving the doors open for the moral indictment of its rule. But one can

probably go a step further and ask whether it is the case that the existence of law is in all cases explainable in terms of the needs of the ruling classes. In other words, one can ask whether the bifurcation between law and morals that has occurred in the West is a phenomenon common to all class societies. This seems to me to be indeed the case, insofar as we define law as a set of norms backed and enforced through the centralized exercise of state or governmental authority. Such authority becomes the basis of legality whenever there are institutionalized rivalries or conflicts of interest in a society, and the same moral convictions cease to be shared by everyone or, at least, by an overwhelming majority of individuals, these convictions become ineffectual and need to be 'enforced.' By 'moral convictions' we can mean only the consensus regarding the applicability of the notion of 'person' and the limitations that this imposes on the range of applicability of the universal moral norms. Centrally enforced laws are indispensable only when the personhood of some or many individuals has to be denied or diminished against the will and the convictions of the majority of the population of a society. This last qualification is vital, for as we will see later on, not all limitative or secondary norms have to be imposed by force, that is, not all secondary norms must degenerate into laws. This happens only under particular circumstances, namely when the conditions in which a society lives do not make possible the production of believable or plausible ideological justifications for the imposition of limitations

on the range of applicability of universal norms. In this respect it is important to notice that laws must be distinguished from moral norms of all kinds by reference to their role in the social and not in the geographical space. A law imposed by force in the entire globe is not less repressive than one imposed by the same means in Andorra.

A law, then, in this sense, can be defined as a limitative principle which has to be imposed by force. The fact that it is limitative and non-universalizable does not necessarily make a norm or principle into law. All contingently necessary or secondary norms are by definition non-universalizable, since their function is by definition the limitation of the range of validity of universal rules. But not all secondary norms are laws. To identify a law, then, it is not enough to point out, following Fichte's advice that a given norm requires attitudes that universal moral principles condemn. It is equally important to determine whether this norm is primarily 'justified' by a threat of violence.

But even if we grant that this is indeed the case, the question still remains whether a complex society can subsist as an organized entity without some of the legal institutions known to us. For one might want to argue that there are, in all moderately complex societies, certain 'laws,' in the sense of administrative rules, which are indispensable for the day-to-day functioning of the institutions of these societies. What I have in mind are tools such as courts, the practice of

solving problems through adjudication, etc. I think that the answer to this question requires that we emphasize the distinction between penal and civil law. It seems obvious that in a classless society, in which nothing but the fundamental laws are included in the penal code, the separation between law and morals will hardly be necessary. Things are not that clear, however, if we think of civil law or contractual law. Of course, it could be argued that these types of laws are not necessary if capitalism has been eliminated. But even in this case, the existence of institutions will generate certain demands for the establishment of rules quite similar in nature to those of civil law. In this limited sense I feel we can in fact speak of law as a set of sui generis mechanisms with a peculiar and well-defined social function. It should be quite clear, though, that these mechanisms or procedures are contingent and that far from being conditions of possibility of social life, their existence presupposes the existence of basic moral rules. The reason for saying this is obvious, for these administrative rules that we are talking about are not conditions of possibility of social life in general, but mechanisms necessary exclusively for the materialization of certain kinds of social arrangements. In the third chapter we will examine these rules in some detail after rebaptizing them with the name of 'tertiary rules.'

By way of conclusion we can say, then, that there is no essential distinction between law and morals, and that what has usually been called 'law' is reducible to two kinds

of moral norms: 1. secondary norms that are imposed by means of violence instead of ideological persuasion, and/or 2. instrumental norms which regulate the technical aspects of the operations of some institutions in certain kinds of societies.

b. Of the Passage from Is to Ought

Having shown that moral and legal norms are identical in essence, there are still a couple of problems that we ought to discuss before going on to the deduction of the basic moral norms: the question of the transition from is to ought and the question concerning moral obligation.

It has been a standard practice for many years now to put the blame on Hume for starting this controversy. Some have even talked about Hume's Guillotine with which, supposedly, the heads of evil moral systems should be chopped off. In regard to this, there are two different points that I will attempt to make. First a historical point, namely, I will try to offer an interpretation of some of the relevant passages of the Treatise and, on the basis of this, try to determine the extent to which this traditional belief is true. But, most importantly, I will try to spell out what I take to be the crucial ethical problem uncovered by Hume and later reformulated by Kant. This problem, it seems to me, has only partially been perceived by modern writers and, in some cases, it has been blatantly misperceived. The second part of this section will briefly deal with these modern treatments of

the problem and will also present an alternative solution to it.

What Hume was attempting to prove in the much quoted chapters of the Treatise²³ is that certain kinds of impressions, to wit, emotions or passions, constitute the basis for our moral judgements, that is, impressions relate to moral judgements as ideas do to empirical judgements. For if ideas were at the basis of moral judgements, reason alone would be sufficient to treat moral issues. That this is not so is seen, first, by the fact that morality has an influence on action, which reason, being "wholly inactive"²⁴ cannot have, at least in an immediate fashion. Reason can influence behavior only indirectly by 'exciting' certain passions and that it can do either by "informing us of the existence of a proper object of passion" or by exhibiting causal connections between objects capable of exciting a passion.²⁵

Furthermore, if reason alone were able to establish moral distinctions, there would be no difference between error and wrongdoing or "moral deficiency." A claim that is obviously false.

This whole first part of Hume's argument depends clearly on the assumption that reason is 'inactive.' Trying to explain the full meaning of this claim would lead us away from our topic. But, in general, what is meant is both that reason by itself can never cause us to act and, also, the fact that reason lacks what Kant would later call 'spontaneity,' i.e.,

the ability not only to be impressed by intuitions, but also to produce representations on the basis of the concepts that it possesses. Precisely because reason lacks spontaneity it is restricted to two sorts of operations, for, as Hume never ceases to remind us, it either deals with relations of ideas or with matters of fact. So, if morality were the subject of reason alone, it would have to do with one of these operations, and moral decisions instead of being formulated in terms of good and evil, would have to be formulated in terms of truth and falsehood. And, thus, again error and wrongdoing would have to be identified.

But Hume's strongest arguments lead in a different direction since, at the end, they aim at the most refined sorts of rationalism. Let us assume, he says, that morality has something to do with relations of ideas. If this were so, morality would have to be identical with one or more of the four relations susceptible of demonstration or it would have to be a fifth sort of demonstrable relation. That the first alternative is absurd, Hume proves by pointing out the fact that these four relations are "applicable, not only to an irrational, but also to an inanimate object." Here Hume relies on the fact, which he believes to have firmly established before, that only human beings are proper objects of passion and, thus, by implication, of moral concern. It seems wise to note, nevertheless, that this implication presupposes to a certain extent what Hume wants to demonstrate, i.e., that passions and not reason are the proper carriers of morality.

The second alternative is, by far, philosophically more interesting, since, in a way, it states the problem that Kant sought to solve in the Second Critique. For the sake of brevity, and because our task is not so much the exposition of Hume's theory as the elimination of a misunderstanding, I will concern myself only with two of the, at least, three arguments developed in this connection.

If there is one or a set of moral relations susceptible of demonstration, Hume goes on to say, that these relations must place on the understanding but, most importantly, also, on the will, the operations of which would be the 'effect' of the operations of the understanding, such constraints that a) moral norms would have to be perceived by any and all rational beings as absolutely necessary and obligatory and, b) the connection between "every well-disposed mind" and the will would have to be necessary and admit of no exceptions.²⁶ According to Hume, this last presumption not only contradicts our experience, but also requires of an a priori demonstration that cannot even be imagined.

The plausibility of this whole argument rests on the anti-Socratic assumption that the knowledge of virtue or goodness does not automatically compell the will to act properly. As is well-known, Kant accepted this and used it to differentiate between human and divine natures.

To close this part of his discourse, and on the basis of several examples which purport to show that animals and

plants can engage in exactly the same relations with one another as human beings, Hume develops an argument that not only turns out to be a powerful attack on a position of the sort that now we would call ethical intuitionism, but that also helps make sense of the famous final remarks on the transition from is to ought.

Suppose that 'incestuous' relationships occur among animals. Obviously, Hume says, no one in his right mind would want to claim that they are a sign of moral 'turpitude' on the part of the animals involved, even though the relationship is identical in form to one that, if it were to occur among humans, everybody would immediately condemn. In other words, it is not the mere perception of a relation between objects that prompts us to act morally. The problem now is that of explaining the origin of our moral indignation. Hume cannot say that it originates in reason alone, since he has declared reason to be 'wholly inactive.' All reason can do is apprehend the relation, but it cannot spontaneously initiate any moral distinctions, since such distinctions belong to the realm of the practical.

But Hume still has to prove beyond doubt that moral qualities are not matters of fact, properties of the real world, which could be apprehended in some way by reason. To do so, Hume initiates a maneuver similar to the one he used to combat the substantialist conception of causality. He simply requests that evil actions be examined "in all lights"

and an attempt be made to find in them some one quality or qualities that could be called 'vices.' Hume's assumption is, of course, that there are no more vices in the world than there are 'connections' that could be called 'causes.'

In our time, people who have arrived at the same conclusion that moral distinctions do not originate in reason alone, and that neither are they qualities of the world, have been tempted to adopt one of the many varieties of 'Intuitionism.' By Intuitionism I mean here the general thesis that moral qualities are a special sort of entity knowable only through a certain special faculty, different from Reason and the external and internal senses. Now, it is quite obvious that Intuitionism as defined above is absolutely incompatible with Hume's Empiricism. There is no room in Hume's map of human faculties for an intuitive faculty. The path that Hume chooses to follow is a different one. He attempts to account for morality in terms of our feelings and emotions. Let us briefly sketch his solution.

The problem, again, is that mere inspection of matters of fact does not reveal any special qualities in these facts that could be termed 'vices' or 'virtues.' Yet, it is undeniable that it is of matters of fact that we predicate moral qualities. We say this or that relation is immoral. But if they are not properties of matters of fact, virtues and vices must be generated by the action of our self on the world. That is to say, they must be 'secondary qualities.'

But since reason does not discover them, and, since being inactive it cannot generate them spontaneously, they must be the effect of matters of fact on the non-rational, emotive component of our self. And indeed, when we say of something that it is virtuous or vicious, what we notice when we inspect our mind is a certain kind of 'feeling' or 'emotion.' Hume explains all this quite clearly in the following way:

. . . Here is a matter of fact, but 'tis the object of feeling not of reason. It lies in your self, not in the object. . . . Vice and virtue, therefore, may be compar'd to sounds, colours, heat and cold, which according to modern philosophy, are not qualities in objects but perceptions in the mind: And this discovery in morals, like that other in physics, is to be regarded as a considerable advancement of the speculative sciences; . . .²⁷

But let us turn back now to the controversial passage concerning the transition from is to ought. The problem is, of course, to determine what it is that Hume finds illegitimate in the sudden move from is to ought that he has detected in many a writing on morality. Mind, first of all, that what bothers him initially is the fact that moralists do not consider a justification of their move necessary. Hume's point is, clearly, that even if they wanted to provide such a justification they would fail in their attempts since most of them start either from the false assumption that 'ought,' the term that signals the presence of moral judgements, denotes a relation and, hence, originates in reason, or from the equally false assumption that 'ought' denotes some quality of the world. In the famous passage,²⁸ Hume is simultaneously condemning these two fallacies. Most of the controversy concerning the

proper interpretation of the passage would disappear, it seems to me, were this to be noticed. In general, the second point is emphasized. And although this is bad insofar as it contributes to create confusion, it is good insofar as it puts the stress on the most important issue, namely, that of explaining how nature and morality are related, how it is that moral judgements can be deduced from matters of fact.

That Hume thought this deduction of 'ought' from 'is' to be possible is proven by his own ethical system. Hume performs the deduction without breaking the limits of legitimacy, i.e., without assuming that 'ought' is a relation. His treatment of the notion of 'justice' is the best example I can think of to illustrate the way in which he considers fit to perform this transition.

Justice, being an artificial virtue, is nothing towards which we are naturally inclined. The source of our allegiance to justice and the fact that we feel that we have an obligation to act justly must, then, be instilled upon us. But, although artificial justice is perceived as a moral virtue, i.e., it has to be accompanied by the feeling of satisfaction proper of moral virtues. The explanation of this fact demands two different steps, in Hume's eyes, mostly because in order to avoid a vicious circle one has to distinguish neatly between the motive of our just actions and the reason why we regard justice as virtuous.

The motive or reason that inclines us first to act justly is provided by reason, which teaches us that there is

a connection between the selective limitation of our demands and the cooperation with others and our well-being. Now, although this, plus the natural interest we have in uniting with members of the opposite sex is enough to convince anybody that the establishment of society and thus the respect for obligations, property, in short, of justice is reasonable, this alone is not enough to explain why we consider justice to be a virtue. For, although virtue and interest usually coincide, they do not always and are thus distinguishable in principle.²⁹ It is a natural sentiment, called 'sympathy,' which enabling us to "partake" in the feelings of others, gives justice its moral character, insofar as it causes in us the feeling of satisfaction or displeasure, according to whether somebody else, who may not even be closely related to us or to our interests, suffers justice or injustice.

For Hume, then, a philosopher would commit the fallacy that he denounces in the is-ought passage, if he were to claim that we ought to act justly because doing so is in our best interest, since, as we have seen, the knowledge that doing 'x' is related in ways 'y' to our well being is, at most a good motive to do 'x,' but not grounds or a reason for feeling obligated to do 'x.' The moral use of 'ought' can be justified in this context only by referring to the feeling of sympathy. Therefore, even if our self-interest or the interest of our community prompt us to act, this action of ours does

not deserve the name of 'moral' unless it is accompanied by a sense of satisfaction arising from the feeling of sympathy.

But let us stop here our brief discussion of Hume's ethics and attempt to summarize what we have learned from it. Our most general conclusion has been that the is-ought question as conceived by Hume comprises at least three fundamental issues: 1. the question concerning the relation between reason and morality; 2. the question of the relation between nature and morality and 3. the question concerning the nature of moral qualities. At present, and since the beginning of this century, moral philosophers in the Anglo-American realm have been predominantly concerned with question 2, as shall become obvious in the next few pages. This is not necessarily bad, for when it is formulated in a broad manner, this question points directly at the most important of Hume's discoveries concerning morals, to wit, that moral qualities are like secondary qualities, that they do not exist independently from human consciousness, in other words, that they are not 'natural,' but man-made.

If we insist on seeing things in this particular way, it should not strike us as surprising that parallels have been drawn between Hume's Guillotine (let us keep this suggestive name) and Moore's Naturalistic Fallacy. To a certain extent, what bothers Moore is also the identification of such things as self-interest and universal happiness with the moral good, this being a peculiar, independent, non-natural quality. The

point common to both Hume's and Moore's arguments is, I think, properly emphasized by H. Prichard's³⁰ remark that the cause or reason of behavior is not always and not necessarily a source of morality, that is, of obligation. This I take to be the meaning of his apparently bizarre claim that ". . . an obligation can no more be based on or derived from a virtue than a virtue can be derived from an obligation. . . ."31

Apart from the fact that the choice of words is most unfortunate,* and to the extent that the point is reasonable, it means, simply, that not any motive for action is conducive to moral goodness. Prichard's thesis ceases to be reasonable when dramatized to mean that no motive of action whatsoever, other than obligation, is or can be conducive to moral goodness.**

* Prichard has another reason to choose these particular words, i.e., his intention to disassociate himself from Hume. In pages 31-32 he wants to distinguish between intrinsically good feelings, v.g. sympathy, and obligation. An act accompanied by such a feeling is virtuous in a sense, but not obligatory. This is a consequence of his previous claim on page 24 that the "apprehension of the goodness" of something does not "necessarily arouse the desire for it." Or, inversely, if we were to perceive some action as being bad in some sense or other, we would have, in Prichard's view, a good reason to avoid it, but not a moral obligation not to do it.

** Certainly this is not the best place to discuss Prichard's paper in detail, but there is one comment I would like to make regarding this particular thesis of his. The most conclusive proof he seems to feel he has offered in support of his view that obligation is, so to say, a moral atom (p. 27), is that, granted that feeling that I ought to do something is identical to my "feeling moved toward" doing that something, it follows that stating that I need a motive, different from my feeling of obligation as such, to be so moved, involves a contradiction similar to the one involved in the claim that I can will to will. Since by having a motive other than the feeling of obligation "I would be moved toward being moved,

This unreasonableness is not present, though, in either Kant's or Hare's versions of the thesis, for in both cases a foundation for the moral sense of obligation is postulated apart from the perception of this feeling as such. In response to Hume's defiance, Kant sought to demonstrate the autonomy of the will, and thus the capacity of the human intellect to act as a legislator. Moral obligation (Pflicht) is generated only when the will acts disregarding particular interests, attempting to conform its actions to a universal law applicable to all rational beings. In real terms this means that only interests capable of being universalizable can be the subject of moral obligation.

Now, there is a sense in which, for Kant, one can validly say that 'ought,' the moral ought, that is, is not derivable from 'is.' In the First Critique Kant shows that Reason, although active in the sense of being spontaneous, is inactive in the second Humean sense of being incapable of prompting us to act. It is the will alone which determines whether we are to act or refrain from acting. All that the pure understanding can do is exhibit the laws governing the objects of nature. But insofar as the will is capable of

which is impossible." Actually, Prichard has the whole of Christian ethics to prove him wrong. For, as is well-known, for Christians an action is good only and only if it is performed for the proper reasons or motives. In fact, there is nothing contradictory in the attempts of moral educators to teach people to act out of the right motives, i.e., to try to move them to be moved by the right motives. All the talks in courts of law regarding intentions rests on the assumption that this is so.

prompting us to act in accordance with laws, it is practical reason. Practical reason or 'will' is 'good' will without qualifications, only when it acts, disregarding everything else, according to law. But laws are valid a priori, not derived from observation through abstraction, induction or any other such means. Hence, it is not in experience but in the understanding itself that the causes of moral action, of the action of the good will without qualification, have to be sought.

But Kant had learned from Hume that the human will need not conform to reason, i.e., to law. It can derive maxims for action from other sources, from a concern about individual happiness or social welfare, for example. When this is the case, the will acts according to hypothetical rather than according to categorical imperatives. The former are imperatives in the very general sense that they confront the will with a sense of objective necessity, but not of moral necessity. An hypothetical imperative indicates the means to be followed once a certain end has been chosen, which end can be either possible or real.³²

Again here, as in Hume's Treatise, the concern is with the need to distinguish between those things that can simply incline us to act in this or that other way, and those things that generate an obligation to act. As far as I can see this is what the problem of deriving 'ought' from 'is' amounts to in classical philosophy.

With the advent of the very crude varieties of empiricism that became popular at the beginning of this century the problem was reformulated. The most unsophisticated and typical version of this reformulation is to be found in A. Ayer's book Language, Truth and Logic.³³ There Ayer sets out to prove not that the basis for the meaning of moral statements is different from the basis for the meaning of non-moral, empirical statements (which is a perfectly obvious, though intriguing truism), but rather that because moral statements cannot be reduced to empirical statements, the former must be meaningless. According to Ayer, the function of moral terms is to express our (arbitrary) feelings or emotions concerning certain actions. Because of that, these terms do not add new information about the actions themselves, when attached to the sentences that describe them. In a way, then, moral terms could be replaced by cries or exclamations. The obvious question in this context is, of course, why is it that Humanity, that has otherwise given numerous signs of being relatively reasonable, has invested, each time a new language was developed, so much effort in creating absolutely unnecessary terms.

In part, I think, to avoid this kind of criticism, Stevenson has insisted upon the fact that apart from communicating our feelings, moral terms are meant also as means to influence other people's emotions, that is, to propagandize our feelings and have others imitate our approvals and disapprovals. What reason we have to want to do so, Stevenson,

of course, does not say, assuming, presumably, that this is a task beyond the scope of philosophy.

In one of his articles, Stevenson states, with remarkable candor, what I take to be the basic assumption of Emotivism, to wit, that "we do not know what good (or any other moral term) means."³⁴ Such a statement is understandable only from the perspective of extreme, naive empiricism and from the perspective of the so-called 'picture theory of exhibiting meaning.' That is, from a perspective that is incapable of exhibiting the richness of language and of social life in general. S. Hamshire³⁵ has pointed out the main defect of this approach, namely, its failure to explain moral statements in their uniqueness.

I see two major weaknesses in the position of the Emotivists, apart from those already mentioned. Faced with the Humean problem of describing the connection between nature and morality, but unable, unlike their master, to even conceive of the possibility of describing moral qualities as secondary qualities of sorts, the Emotivists deprive moral judgement of all substantive content and reduce them to the status of mere signals. The difference between Hume and the Emotivists is immense, for while Hume argues, as we have seen, against any reductionist attempt in regard to morals, the main thrust behind Emotivism is a naive physical reductionism. What the Emotivists want is not to avoid the Naturalist Fallacy, but rather to commit it. And it is because they are unable to do so in their

own terms, that they feel forced to deny any substantiality to moral judgements.

On the other hand, Stevenson's trick of attributing a propagandistic force to moral expressions is misleading and question-begging. For even if we grant him his main thesis, he still would be left with the task of explaining the reason why most persons do not run around making moral judgements in front of persons or other entities whom, they assume, will not be susceptible to their moral propaganda. In other words, it seems that there are certain facts concerning other humans that we do take into account before uttering moral statements. And I see no reason, other than caprice, to want to deny that these facts about persons do contribute to the meaning of moral terms. It is certainly not an accident that moral statements are usually thought to be meaningful only when uttered in the presence of certain types of persons.

In modern times there has been another attempt to reformulate the is-ought question, which is quite a bit more serious than the one we have just mentioned. H. Poincaré,³⁶ in a brief essay dealing with the impact that the advancement of the natural and social sciences can reasonably be said to have on morality, seeks to refute the claim that eventually an empirical science of 'morality,' as opposed to a mere science of 'human customs' will be developed. He points out that it is logically impossible to derive an ought proposition as the conclusion of a syllogism all the premises of which

are is-statements. From this logical impossibility we learn that under no circumstances can we find, by the sole inspection of nature, a response to our question concerning the morally proper course of action. Mostly, because all science can provide are propositions in the indicative form.

K. Popper³⁷ makes a similar point in the following terms:

All moral decisions pertain in this way to some fact or other, especially to some fact of social life, and all (alterable) facts of social life can give rise to many different decisions--which shows that the decisions can never be derivable from these facts, or from a description of these facts.

So, for instance, if we were to establish that humans need to be properly fed in order to survive in society, we still would have to decide by ourselves whether we want to derive from this fact either an equalitarian or an exclusivist morality, that is, either one that considers that all humans have the right to be fed or one according to which only some have that right. Both moralities are perfectly compatible with the same fact, primarily because they have nothing to do with the fact as such. According to Popper this proves the 'conventional' character of moral norms. That they are conventional does not mean, nevertheless, that they are necessarily 'artificial,' but simply that they are man-made and thus "that men can judge them and change them, not necessarily that they have created them."³⁸ There is, at least, one natural barrier for moral legislation that aspires to be effective, according to Popper, to wit, "sociological law," i.e., those laws of society that determine

the functioning of "social institutions" and that resemble the laws of nature. Our decisions have to conform to them or they will become ineffectual.

Before continuing the discussion of the is-ought question, I would like to make a couple of general comments on Popper's views. I can see two major faults in his doctrine concerning the 'conventional' character of moral norms and in his attempt to distinguish them from "sociological" norms. Precisely because he wants to postulate that all moral norms are conventional, he finds himself forced to make this distinction, a distinction that, as he himself concedes, is not easy to draw when studying the functioning of a social institution.³⁹ To illustrate his general point Popper relies on an analogy between machines and their 'plan or design' and sociological and moral rules, warning us immediately, nevertheless, that he does not want to push the analogy so far as to allow an identification of 'social institutions' and machines.

Obviously, what Popper fails to see in this respect is that the constitutive rules of social institutions are indeed moral, so that, as we have seen in the first chapter, they inherently or necessarily reflect their purpose or purposes. Popper's doubts as to whether it is wise to claim that every institution has a purpose, are to be understood in this light, as are his remarks about the 'natural' character of certain economic laws. The rules that constitute the economic institutions of a society, and they alone, are the ones that materialize the basic social function of production, and this

exhausts all their purpose or meaning. Another way of putting this would be to say that Popper fails to recognize that some moral rules function as conditions of possibility of social life.

Now, and this takes us to the second comment I would like to make, attempting to answer this criticism, Popper could call in his argument that social institutions do not always operate for the advantage of all the members of a society. Here we meet a twofold confusion. We have already seen more than once that morality as such has nothing to do with the aspirations of universal justice; a social institution does not seek to serve everyone in a society but only those who possess the status of full juridical persons. But let us suppose that we adopt the point of view that only those things are good which serve all members of a society. What follows from this is not that a given social institution that serves only some of the members of a society is in itself 'amoral,' that is what Popper wants to claim, but that, from our perspective, the limitations imposed on the concept of juridical person in this society are 'immoral.' It would seem, then, that Popper's arguments to press the distinction between moral and sociological laws rest on a fallacy similar to the one he wants to keep us from committing. For he seems to deduce from the fact that social institutions can sometimes be judged to be immoral, the conclusion that social institutions are 'amoral.'

Once the need that humans have to eat in order to remain alive has been recognized, all that can be a subject

for discussion are the limitations that ought to be imposed upon the extensional meaning of the notion of juridical person. That this is a different kind of moral problem than the one of recognizing the universal moral norms as such, should not lead us to deny the moral character of the latter.

I take J. R. Searle's point about 'institutional facts' to be in the same line as this criticism of Popper's distinction. Searle⁴⁰ claims that, to a great extent, the is-ought issue has been generated by a failure to see that there are two different kinds of descriptive statements, those referring to 'brute' facts and those referring to 'institutional' fact.*

* From what we have been saying so far concerning this issue it should be clear that Searle has in mind not its traditional formulation, but the first modern reformulation. For this reason I will not concern myself at all with his controversial proof, that I take to be utterly unnecessary and that he directed against the first reformulation. In fact, the discussion of this 'proof' has accomplished nothing, having rather obscured even more some of the substantial problems. En passant, it is perhaps worthwhile to note, nevertheless, that, in a general sense, Hare's argument against Searle's proof is conclusive (see "The Promising Game" in W. D. Hudson (ed.), The Is-Ought Question, pp. 144-56). For if the derivation from premises 1 to 5 is possible, they must all be tautologies, and it is hard to see how a tautology can entail the necessity to act in a certain way. Searle's response (see "Deriving 'ought' from 'is': Objections and Replies" in W. D. Hudson (ed.) The Is-Ought Question, pp. 261-271) that a tautology alone does not generate obligations, but because the conclusion of his derivation has hypothetical form, when an empirical statement is added ("he in fact promised . . ."), then the obligation to do what the conclusion states is generated, is not satisfactory. For this argument implies either that the empirical statement itself is part of the derivation in which case it is, ex hypothesis, not empirical but tautological, or it is not part of the derivation, in which case the initial problem is reconstituted. We can hardly agree with Searle's implied belief that the statement presumably uttered by a third person, that "X in fact promised . . ." is somehow or other entailed by "x's promising." X's promising is done through

In our language, institutional facts are those pertaining solely to the materialization of social functions, i.e., those that 'constitute' the institutions through which they are materialized. These 'constitutive rules,' Searle says, "constitute forms of activity whose existence is logically dependent on the rules."⁴¹ Now, Searle's point is that once I have placed myself inside an institution by following the established procedures (uttering words or phrases or going places, etc.) the distinction between what is and what ought to be collapses, for the very act of accepting the institutions imposes certain obligations and responsibilities upon me, i.e., precisely those laid out by the constitutional rules that make such an activity possible.

This particular way of understanding Searle's arguments is, obviously, compatible with the point of view of the GTHSP. The main difference being that Searle fails to realize that certain institutions are necessary and that, thus, the very fact of living in society makes us part of them. That is, the rules governing the basic institutions of social life are, so to speak, accepted not through a series of separate and unrelated acts, but, because they are entailed or implied in the very exercise of reason, as defined in the previous chapter. All basic social institutions are accepted as a package from

performative, not through empirical statements, since X is incorporated into the game of promising by actually promising, not by talking about promising and, much less, by having someone else talk about his promises.

the very beginning of our life in society. Searle gets into the paradoxes pointed out by Hare, that we have briefly discussed above because he seems to assume that all social institutions are contingent and that our acceptance of each one of them is not, unlike our acceptance of baptism, a one time affair; but, rather a sort of compromise that has to be renewed as many times as we make use of these institutions.

But, at this point, at least three objections based on the original and the second modern reformulation of the is-ought question could be raised.

For Hume and Kant, we have seen, self-interest alone or, for that matter, collective interest, can never generate moral obligation but, in Kant's words, only heteronomy. Applying this line of argument to our views concerning the nature of basic moral norms, someone could argue that, even if granted that they are conditions of possibility of social life, that is, even if the claim that they are functionally necessary is accepted, it still will not follow that there is an inherent necessity to obey those rules. Two types of responses can be given to this argument. First, it is clear that the only proper subjects of obligations are and can be what we have called 'juridical persons.' So, in a way, the question whether there are obligations previous to the existence of society, i.e., to the existence of juridical persons, is non-sensical in a similar way as the question "what was God doing before creation?" is non-sensical according to Saint

Augustine. There are no obligations before the institutions of society, as there is not time before the creation of the universe. Time comes with the universe; moral obligation comes with society.

The Kantian claim that obligations are binding not only for human beings but, in general, for all rational beings is, for this same reason, senseless, since there is no rational being in the sense in which humans are rational who is not a person, and, consequently, who does not accept the obligation of abiding by the fundamental social norms.

There is a sense, nonetheless, in which the Kantian claim that moral obligation originates in the exercise of reason is perfectly true. For, as has been established in the first chapter, the primordial act of reason is, precisely, the acknowledgement that there is an absolute need to accept the rule of the basic moral norms in order to make life in society possible. The recognition that there are certain obligations, this is basically the content of the original act of human rationality. Hence, it can be said that the notion of obligation is a primordial one.

Saying that it is mere self-interest or collective interest which motivates people to accept the basic social norms is, therefore, a highly distorted way of describing reality. What is at stake is not the well-being of this or that other group of individuals, but the very possibility of existence of human rational life. Whether the development of

human rationality takes place in stages, like certain psychologists are now suggesting, or if it comes to maturity as a result of a single act, is an independent question. In principle, Piaget's and Kohlberg's theses that there are stages in the development of human moral awareness seem to me fairly plausible. Particularly interesting is the claim that the first stage implies calculations that take into account the individual's self-interest, fears, etc. As I have already suggested, this is probably the reason why in all societies a period in the life of persons called 'childhood,' during which the individual is not seen as a full person, is recognized.*

Most probably, what induced Kant to separate between morality and heteronomy so sharply is the fact that it seems to exist an obvious discrepancy between the universality of the norms generated by reason, and the imperfections of their worldly instantiations. From the fact that the universal norms are nowhere perfectly instantiated, he deduced a) that the grounds for their validity are independent from the form of their instantiation since, b) the human will is incapable of materializing them in their universal form, i.e., as veritable laws that allow of no exceptions. A very hasty conclusion

* I think, though, that even if Kohlberg's account of the first stage of moral life is true, one ought to be careful in not hurrying to deny the existence of a more developed moral consciousness in children. That they have it to a degree is proven by the fact that they are perceived as such and not as wild animals.

indeed, which, among other things,^{*} forgets, again, that the obligatoriness, so to say, of basic moral norms applies to all juridical persons, whether they be two or two billion. The word 'all' in this context refers always to the quality of personhood, to the number of real persons existing in the world. Assuming that "do not lie" is a universal moral norm, the obligation to obey it falls with no restrictions on all persons actually existing. These persons comprise what could be called the extensional validity of the norm.

But even if we grant that there is such a thing as a primordial act of rationality, by or through which the obligation of regulating behavior is instituted, still the question can be asked, why should anybody, once having consented, refrain from withdrawing his consent. In the first instance, this question brings us back to the problem of suicide, which we have briefly considered above.^{**} In a recent paper, H. Krämer⁴² sees what he calls "Suizidalität," the capacity to end one's life, as an intrinsic quality of the good life, and thus, of human life in general. For refraining from committing suicide is a proof that life is valued positively. In this sense, Krämer thinks, the "Suizidalität" is a component or a 'category' of the good life, that he calls "eudemonistic minimum."

* See the discussion in Chapter I, Part II, a.

** See Chapter I, Part I, d.

But although what are being raised here are philosophical questions of the utmost importance, they can hardly be said to relate to the is-ought issue. For the question whether I should end my life, assuming that I am already a person and hence accept many an obligation, is, at most, a question about these obligations, i.e., whether I have an absolute obligation to be a person, and not a question as to how obligations are generated in the realm of human social life. The question as to whether I have an absolute obligation to be or to remain a person transcends the GTHSP both in the manner considered in the first chapter and, in the way in which wonder concerning the meaning of the universe as a whole transcends the scientific explanation of natural phenomena. Morality gives a meaning to human life only in the very narrow sense in which making something possible gives that something a meaning. The study of human morality does not contain the clue for the answer to the deeper philosophical and religious questions concerning the ultimate meaning of existence. Or, to put it crudely, whether life has an ultimate meaning or not, the circumstances for its existence are the same. And it just might be that we humans are indeed condemned to be good for nothing.

There is a different way of understanding this objection that seems to be more relevant to the GTHSP. For, even if one grants that there is a primordial act of rationality that entails the acceptance of obligations, one can still feel that it is possible to accept some, but not all obligations.

This can perhaps be best understood if we recall that the basic norms are tied to needs, so that accepting the obligation to abide by a basic norm implies consenting to participate in social functions aimed at satisfying these needs. Hence the argument can be proposed, that maybe it is possible to consent to participation in some but not all the fundamental social functions. From the definition of social function alone, it follows that this argument contains a contradiction in terms, for one cannot accept some, but not all the conditions of possibility of some entity and still expect that entity to subsist as such.

This last point is fairly important, as can be seen by the fact that ignorance of it has led most, if not all philosophers who claim that there is a relationship between human nature and human morality, to propose confusing and vague theories. So far, I have been able to find only one paper where this issue is intelligently discussed, a brief, but lucid paper by Eilleen M. Loudfoot.⁴³ There she examines the position of two recent defenders of ethical naturalism--G. J. Warnock and R. S. Downie,⁴⁴ and claims that while the first postulates that there is an 'analytic' connection between human nature and morality, the latter believes that the connection is 'synthetic' or 'causal.' Loudfoot offers excellent arguments to show that the 'analytic' theory, as formulated by Warnock, is untenable.* Her arguments, nevertheless, contain

* This theory claims that any rule is moral which tends towards the "betterment or non-deterioration of the human predicament."

weaknesses. She thinks that the main fault in Warnock's theory is that it fails to recognize that "even granted that implementation of moral rules results in amelioration of the human condition, it does not follow that this is what makes these rules moral. That is to say, we can distinguish between the consequences of implementing a moral rule and the criteria for its being a moral rule, . . ." ⁴⁵ Because Warnock does not make this distinction, he is committed to, in Loudfoot's view, the inadequate view that a rule like "People ought to destroy the human race" is non-moral, rather than immoral, that is what we, as normal speakers of English, would be tempted to think. Now, we have seen that such a rule is in fact non-moral, for its implementation implies the denial of the possibility of human social life. Of course, Loudfoot is right in pointing out that there are other non-moral rules, like "You ought not to raise your head when striking the golf ball." What I do not think she proves is that Warnock is in any way committed to the view that these two non-moral rules are part of the same class of rules: A philosophical theory cannot be judged according to whether it complicates the common use of language, and besides in this case the word "immoral" can be introduced if desired, for there is no contradiction implied in calling those rules that do not only fail to contribute to the "amelioration" of the human predicament, but also direct behavior against this amelioration, 'immoral rules.'

Loudfoot has another argument, stronger in my opinion, to defend her point. She notices that in Warnock's account

art or science acquire a moral character only when they have an immediate bearing on the human predicament, but otherwise they are substantially different and independent from each other. But, if this is the case, Loudfoot continues, conflicts can arise between these spheres of human activity so that one would have to decide, for example, between improving the human predicament and developing a certain line of research. Such a conflict cannot be resolved a priori, according to Warnock, because morality is only one, though important, among many "considerations relevant to practical issues, and accordingly liable to be weighed in the balance against others," and "when so weighed, be adjudged not decisively weighty."⁴⁶ From this Warnock concludes that there is nothing intrinsically "irrational" in such behavior, so that, at the end, there is no intrinsic necessity for a man to be moral and if he is so, it is only because he wants to: "Thus, it is possible for a person to want to be moral; and a person is moral, by and large, exactly in proportion as he really wants to be so."⁴⁷

Having correctly detected the weakness, Loudfoot fails, in my opinion, to see its real origin and all its implications. For her, the main problem of Warnock's view that "it is not analytic that moral rules are the most important" is that this commits him to an infinite regress of sorts for if the moral ought is not "overriding," the existence of a superior "ought" has to be postulated to solve the conflicts between competing practical demands, and hence we are back at the starting point.

But although this is a sound argument, there is much more to Warnock's thesis. His view that the moral ought is not overriding has to do with his failure to recognize morality as a condition of possibility of social life; it is also because of this same failure that he is forced to make morality dependent on the wishes of individuals. His argument that it is in fact the case that people do sometimes attach a greater weight to non-moral, than to moral considerations is an abstraction that does not prove anything. For not only does he not take into account the fact that such decisions never concern the welfare of those recognized as persons or, when they do, they are backed by reasons similar to those that can easily be seen if his examples are examined. For, even if one could show that in all cases in which non-fundamental moral norms are involved, other, non-moral considerations, are regarded as more important by the majority of people, this would not allow us to draw the conclusion that morality as such is not necessarily overriding. Such a claim is self-contradictory, since what it really means is that the obligation to destroy society is more important than the obligation to preserve it, especially when our aim is to preserve it.

To summarize, then, although not necessarily backed by the best reasons, Loudfoot's claim that Warnock's theory is unable to provide an acceptable account of the necessary connection between human nature and moral obligation, is correct. The main defect of Warnock's theory being his inability to recognize morality as a condition of possibility of human life, and presenting it rather as a merely desirable end. Refusing

to choose desirable ends is certainly not irrational; refusing to choose the foundation of human rationality is, on the other hand, most certainly irrational.

Loudfoot's examination of Downie's "synthetic" thesis is equally revealing, more, I would think, because of her own suggestions, than because of what she has to say directly about Downie (which is not much) or because of the latter's insights. Let us start then, by commenting on Downie's view.

In a passage on page 27 of his book, which Loudfoot also quotes in part, he claims, after having listed what he takes to be "some trivial facts about human nature" relevant to morality the following:

The point is simply that because people and their environment have certain obvious characteristics they will tend to accept certain forms of social organization. The "because" here is to be analyzed causally rather than logically; it is not that "ought" means "what pertains to social survival," but only that most people in fact desire this.⁴⁸

In an earlier passage he had emphasized the same thought:

It (pointing out trivialities about human nature) will, secondly, bring out the close link between the kind of nature we have and the kind of morality we have. To say this is not to say that morality can be deduced from the facts of human nature, but rather that we accept the kind of morality we do because we are the kind of people we are; that any plausible account of morality must have close links with an account of what people and their environment are like.⁴⁹

There are many things that can be learned from these quotations, one being that Downie is obviously eager to avoid the accusation that he is trapped in the 'naturalistic fallacy.' So, he does not want to maintain that morality can be "deduced" from human nature. But, instead, he wants to make the more

prudent and tautologous claim that a correct account of human morality must take into consideration human nature. Actually, he is not the only recent writer who insists in making this claim. Kohlberg⁵⁰ thinks that therein lies, in part, the secret of "committing the naturalistic fallacy" and "getting away with it." He too feels that although moral psychology might not be enough to allow us to construct a normative morality, it can nevertheless provide us with sufficient information concerning the workings of the human mind, to allow us to discard those moral theories that are based on false assumptions about it. The point seems fairly acceptable to me, and I suppose it could even be a little bit useful for a discussion with a Kantian or with some other kind of misguided moral philosopher, who confuses man with God, and sets for the former standards of moral behavior appropriate only for the latter.

Now, the first problem arises when we try to understand what Downie really means when he posits both that morality cannot be deduced from human nature and that, as a matter of fact, because they are what they are, human beings accept certain kinds of moralities that "must have certain structural features in common."⁵¹ Loudfoot is right in asserting that he does not offer too many clues for the clarification of his views. She, on the other hand, believes that the reasonable claim in this respect would be that given the characteristics of human nature, "people causally must have a system of organizational rules or morality as such,"⁵² the differences between actual

morality being explainable in terms of prudence or of the differences in temperament of human groups. I do not think that this explanation is satisfactory, nonetheless, mostly because it does not clarify the sense in which the word "causal" is to be used. In fact, both Downie and Loudfoot seem to assume that the term is more or less transparent and in no need of explication.

From the two quotations we are considering, it would seem to follow that Downie believes that the recognition of the morally relevant trivial facts does not obligate people to accept any particular moral principles, but rather causes or inclines them to accept certain principles. In other words, knowledge of human nature is not in itself capable of originating obligation, but, presumably, only the will or inclination to assume obligations of a definite sort. So, Downie could be making a kind of Humean point, by stressing the fact that although knowledge can, under given circumstances, excite passions or desires, that is, function indirectly as a cause of action, it can never by itself cause us to act and, much less, cause us to act morally. The first question that arises in this context is, of course, "if not here, where, then can the origin of moral obligation be found?" Downie can probably not answer this question without stepping outside the framework of his theory, for his theory suffers of the same illness as Warnock's: it fails to recognize morality as the condition of possibility of social life and relegates it merely to the level of a desirable thing. We have already seen that

desirability can never be the origin of moral obligation and that, at most, it can, incorporated into a hypothetical syllogism, be connected to practical necessity. The form of such reasoning would be "if you desire X, then . . ."

It is in these terms, too, that Downie would probably try to justify his claim that all forms of human morality must have something in common. The 'must' here indicates that we are in the presence of a form of practical necessity. Thus, if you desire to establish some sort of social organization, then you have to accept a morality that takes into account human nature and, hence, you have to accept certain patterns of behavior.

There are two things to be noted at this point. In the first place, it would seem that we have not been able to completely escape the assumption that it is human nature which determines what our moral rules are going to be. For, on this account, we discover what can and cannot be done by exploring the capacities and the limitations of human nature. In a sense, then, the norms that can in fact govern our behavior will be deduced from human nature. But, before dealing more extensively with this form of deduction let us consider a second consequence of Downie's 'volitional' thesis.

Presumably, if you are capable of 'being inclined to desire' the establishment of a certain kind of morality, you can, by the same token, be inclined not to desire that sort of morality. For it follows from Downie's account that there

is nothing that inclines you a priori in one sense or another. But if this is so, it is, in a way, like asking what God was doing before creation with the aggravating feature that here it is assumed that God could have been inclined to destroy the universe even before having created it, since the assumption that one can opt not to choose the basic moral norms is basically compatible with Downie's theory. After all, such norms do not constitute, in his view, an absolutely privileged class of norms.

It is only by remembering that the constitutive act of morality is an act of reason and not simply a volitional act, that this absurd consequence can be avoided. Moreover, unless we identify the will with a sort of animal instinct, we cannot even conceive of its existence until we have established the existence of persons, since only of persons can volitional acts, in the proper sense of the word, be predicated.

In a recent paper, a writer by the name of Kunt E. Tranøy⁵³ attempts to explain the transition from needs to norms by introducing what he calls the 'Bridge Principle,' which, under certain circumstances, will enable us to "generate" norms from "certain types of scientific or well grounded insights. . . ." ⁵⁴ This principle states that :

. . . , it is not legitimate (it is forbidden, unjustified, immoral) for any norm-giver to order or forbid a norm subject to do any action which is (known to be) not (physically) contingent for the norm subject. Only contingent actions can legitimately be ordered or forbidden--or, indeed, permitted if permissions are norms . . . ⁵⁵

To understand this principle one has to consider Tranøy's

conviction that the proper function of law and morals is to "make possible forms of human life,"⁵⁶ so that any norm or command demanding what is "physically" impossible for a man to do, would ultimately be aimed at the destruction of human life. On the other hand, the norms generated in accordance with the Bridge Principle are "unrejectable," because rejecting them would be tantamount to a rejection of human life as such, that is, to a rejection not of this or that form of human life, but of the very possibility of human life.

Once the general form of the Bridge Principle has been established, it is necessary to determine the facts of human nature capable of constituting the basis for the generation of "unrejectable norms." This is achieved, in Tranøy's eyes, by establishing what humans can and cannot do, which, in turn, can only be done if a list of the "basic human needs" is compiled, such a list defines the "minimum concept of human life."

It should be fairly obvious that I consider Tranøy's theory to be basically correct, at least, the part of it that I have here attempted to present.* Although the fact that he hopes that future scientific research may uncover features of human nature relevant to basic moral norms indicates that he is not fully aware of the real implications of his position,

* I take this qualification to be indispensable, because I consider Tranøy's discussion of the nature of basic needs and their relations to legitimate needs, as well as his whole account of the structure of basic needs and the processes of recognition of such needs, totally confusing. A detailed discussion of his views is, nonetheless, unnecessary for our purposes in this paper.

and that he, too, fails to see "basic norms" as conditions of possibility of human life. Most probably this has to do with his insistence on regarding the Bridge Principle as a principle of legislation, possibly a legacy of Legal Positivists, that, among other things, does not permit him to comprehend the mechanisms of need recognition in real societies and commits him to a 'contractualist'⁵⁷ perspective.

What interests us the most of this theory is the notion that norms can be 'generated' on the basis of the perception of certain needs, for its discussion will provide us with a natural bridge, so to speak, to the discussion of practical or moral reasoning, insofar as such a discussion is relevant to the second reformulation of the is-ought question.

The reason why the Bridge Principle works, according to Tranøy, is that a legislator who demands that people do what they cannot possibly do, would not be seeking the perpetuation but rather the destruction of human life, and therefore, of law as such. Tranøy is aware that sometimes the impossible is demanded from people and he is right to suggest that when this occurs, what the legislator usually has in mind is the destruction of the people that fall under his jurisdiction. Obviously, in such cases the legislator acts more like a politician than like a law-giver. But, the weakness of Tranøy's position is that it really does not explain why anything other than good faith and, perhaps, prudence would 'force' or better, 'incline' the law-giver to act like he is

supposed to. In other words, it would seem that prudence alone is not enough to incline us to show respect for persons. If we indeed do so, it must be because we feel that by the very fact that they are persons, we owe them some respect. Only so can we explain the fact that not always and, as a matter of fact, not even most of the time, does the recognition of somebody's needs lead to the conviction that we ought to apply in regard to him the Bridge Principle or any other principle. Only benevolence can make me feel compassionate toward a stranger whom I do not expect to incorporate into my society. In other words, what Tranøy fails to realize is that the Bridge Principle applies only to persons.

A typical moral, or, if one prefers, practical syllogism, if there are such things, needs have as its major premise only "Persons do (do not) do x to other persons" where x can mean kill, lie, love, etc. So, for example, if I wonder whether to kill John or not, all I need to do is establish whether killing other persons is a thing that persons ought to do. Obviously, such a syllogism must also include a premise identifying me (the actor) as a person, since moral relations, we have seen, obtain only between persons. Now, the way I determine whether a certain action is permitted is by re-enacting the primordial act of rationality, i.e., by asking whether a certain type of relations violates any of the conditions of possibility of social life. It is clear that in reality this step is not necessary, given that persons, insofar

as they are indeed persons, know the limits of their actions. It is equally evident that as soon as I cease to regard myself as a person, the notion of obligation collapses.

This is one of the reasons why I cannot agree with Hare's view that moral obligation can be accounted for in terms of the logical properties of certain kinds of statements or (and this amounts to the same thing) by reducing the logic of imperatives to the logic of indicatives. Let me use one of his most interesting articles to briefly clarify my point.⁵⁸ The article I have in mind is devoted to the analysis and discussion of the notion of "the logic of satisfaction" first introduced by A. Ross and A. Kenny.⁵⁹ The basic contention of these authors is that, given that an indicative sentence reporting its satisfaction, corresponds to any imperative sentence, the logic of imperatives is identical to the logic of indicatives. In defense of this view, Hare argues that all the major problems generated by it* can be solved without

* For example, the fact that from "shut the door" according to the rules of standard logic we can deduce "shut the door or open the window." Or the fact that, from "open the door" we can infer "open the door and smash the window," since doing both of these things would satisfy the initial request. All that is required to eliminate these paradoxes, Hare argues, is to distinguish between "arguments to necessary conditions" and "arguments to sufficient conditions." So, to "open the door" is a necessary condition to comply with the command, while to do both "open the door" and "smash the window," although a sufficient condition, is not a necessary condition to comply with the request. The only logical fallacy in this context would be to assume that the last couple of actions constitute a necessary condition for fulfilling the command. Using some of Aristotle's famous example of "practical syllogisms" (see *De motu animalium*, 6, 7 (701^a10-35) Hare tries to clarify his distinction. So, for instance, the inference

having to commit oneself to the claim that a special sort of logic is required to handle practical inferences. So, at the end, the reason why I do not want to issue contradictory commands is that, having consented to play the "logical game," I want to avoid inconsistencies. Now, given that moral norms are universalizable commands, commands that apply to all persons including myself, what makes me want to act morally is, above all, fear of being logically inconsistent. It is in this sense that Hare wants to claim that, once I have consented to play the moral game (he, of course, does not explain why I should do so), many decisions, all those involving reasoning to necessary conditions, are made for me by logic. This view, we ought to recognize, has at least one advantage, for it allows Hare to avoid Searle's erroneous assumption that every time I have to do something, a new decision has to be made. But, unfortunately, this is not enough to save an essentially weak thesis.

At the end, what Hare seeks to do is to defend his ethical formalism. And this is why he is so interested in showing that imperative logic "is valid independently from the from the objective validity of commands."⁶⁰ In fact, he dares people to show that the word 'objective' has any meaning in

"All men are to march; I am a man, ergo, immediately, I march," is an inference to necessary conditions, while the syllogism "I ought to create a good; a house is good, ergo, immediately I make a house," is an instance of reasoning to sufficient conditions, since there are more goods in the world than just houses.

this context. A moral command is valid, not in virtue of what is commanded, but rather because it has certain 'logical' properties. But, if this were the case, I would have to feel that I have an 'obligation' to be consistent when ordering a slave to do something, of the same sort as my obligation to be consistent when commanding my peers to do something, since none of the 'logical' properties of the statements I use to command people to do something insinuate or indicate in any way whatsoever a difference between slaves and persons. This difference is not a 'logical' but a 'moral' one. This is not to deny, nevertheless, that certain logical distinctions can be grounded upon this moral distinction.

Saying that an inconsistent behavior on my part, when ordering my slave to do something, would be inefficient and self-defeating, is besides the point, for, certainly, I have no intrinsic moral obligation to use my slaves efficiently. Now, it is evident that unless I am arguing for the emancipation of the slaves, it makes no sense to claim that my moral obligations toward my slaves is identical to my moral obligations towards my peers, unless I claim that every time I make a moral claim, I am indirectly arguing for the abolition of slavery. So, even if my will to act morally and my desire to avoid inconsistencies are one and the same thing, this is not the primary datum of moral behavior, for more fundamental is the need to recognize somebody as my equal, as a person. It is exclusively with persons that we play the moral game.

So, moral obligation derives from the awareness that I, as well as others, am a person. And when I recognize somebody as a person, many things follow, to wit, my duty to obey all the fundamental social norms and, hence, my duty to accept the right of all other persons to demand the satisfaction of their needs. The notion of person is, therefore, the only acceptable bridge within 'is' and 'ought,' and no argument, from which it is lacking, can properly be called a moral argument. In this sense, the 'logic' of morality is a particular kind of logic, not reducible to any other kind. So, if one insists on using the word 'logic' in the narrow sense in which it is presently used, moral or practical reasoning can be called 'logical' only in the very general sense that it too is a kind of reasoning. Although, strictly speaking, one ought to say that assertion logic is a sort of reasoning, only insofar as it resembles moral logic.

Arguing from a different perspective, H. von Wright has come to the same conclusion. For him too:

We must, . . . accept that practical syllogisms are logically valid pieces of argumentation in their own right. Accepting them means in fact an enlargement of the province of logic. We cannot reduce the practical syllogisms to other patterns of valid inference.⁶¹

Practical syllogisms, according to von Wright, express "practical necessitation," "necessitation of the will to action through want and understanding." The understanding that von Wright has in mind here is the understanding of "natural necessities" which enter in syllogisms in the form of hypothetical imperatives as the equivalent of a minor. What is

wanted are goals or ends, which occupy the place of a major. The conclusions, on the other hand, contrary to what seems to be the claim of Aristotle, are not actions, but decisions to act.

Now, not all 'practical syllogisms' are moral syllogisms, but the 'logical form' of the latter is identical to that of the former type. And here is where we can find the first and most important weakness of von Wright's thesis, namely, his failure to emphasize the uniqueness of moral arguments. For, although he maintains that there are certain norms, to wit, "autonomous norms," that are in some sense "intrinsically value-directed," insofar as a subject recognizes that his goals can be attained only by taking into account natural necessities, and thus automatically hooks his values to norms covering these necessities,⁶² von Wright explicitly denies that ends and goals as such are normative. He justifies this last claim by exhibiting a linguistic fact, i.e., the fact that ends and goals are said to be 'desired' or 'wanted.' At the end, what he really wants to prove with this rather shaky argument is that there are no necessary moral ends or goals, that is, that there are no ends or goals that can be desired for their own sake, for, he argues,⁶³ if there were such, no autonomous norm would be needed "to move the will to action."

I must confess that I fail to see the force of this argument. For I do not perceive any contradiction inherent in the claim that ends can be wanted or willed or, what amounts

to the same thing, in the claim that values desirable for their own sake are wanted or willed. All that needs to be done to make sense of this is exhibit the fact that in some cases that will is automatically determined to be inclined to act in certain ways by the sole perception of necessary values. This is exactly what happens when I recognize myself and somebody else as persons. When I see a person I am immediately inclined to recognize as lawful or legitimate his claim to be treated according to certain values and norms. If this were not the case, I would not be able to distinguish between a slave and a person. Let us examine this closely and see if there is any difference in the way I view the demands of a person in relation to his right of satisfying certain needs and the 'demands' of a slave to do likewise. Consider the model of von Wright's practical syllogism:

- I. I want this slave A to work for me in the fields.
Unless A eats, he will not be able to work ergo,
 A has to eat.

This is, without doubt, the way I will reason in relation to a slave. Here my goal (I want A to work) and the 'natural necessity' that A needs to eat, appear 'hooked.' But, certainly, my goal is not a necessary one, so that not only do I not want it for its own sake, but neither do I perceive it as generating an obligation of any sort.

Consider now a different case:

- II. I want this person B to work for me in the fields.
Unless B eats, he will not be able to work, ergo
 B has to eat.

If we were to stop here, and this is how far von Wright's theory

will take us, we would be committed to the evidently false thesis that there is no difference in the way we perceive slaves and persons. For, apart from the use of the word 'person' in II instead of the word 'slave' used in I, there are no logical differences between these two syllogisms. The elements that mark this difference cannot be generated from the natural necessities plus my goals alone; rather, their generation requires that we assign a special logical force to the word 'person.' If we do so, the conclusions of both syllogisms can be expanded in the following way: I. "A has to eat and I have to 'allow' him to eat." It would seem contradictory, on the other hand, to say that "I have to 'allow' B to eat," since, by definition, I cannot prohibit B from eating. So, the conclusion of II will have to read more or less like this: "B has to eat, and I have to empower (make it possible for, provide him with the means) to eat." And although in a sense all these other expressions could be incorporated into the conclusion of I, what, once more, is really important to notice is that the words 'allow,' 'permit,' 'authorize,' could never be introduced into the conclusion of II without producing a contradiction.

In a way, what I am arguing for here is something like the Kantian point that persons ought to be treated as ends in themselves. Only that I would like to give the claim a much stronger form. For it is not only that I ought to desire to treat persons as ends in themselves, but rather that I cannot do otherwise. Therefore, the proper form of syllogism II is the one that brings this out into the light. In order to do

so, II needs to incorporate two new premises: "I am a person," and "B is a person."^{*} What this proves is, simply, that the notion of 'person' is, by itself, a source of norms and obligations. How all this relates to the existence of necessary values will, I hope, become even clearer in what follows. But let us first attempt to do what this long digression has been keeping us from doing, namely, deduce the fundamental moral norms.

2. The Deduction of the Fundamental Moral Norms

a. Preliminary Remarks

Having already sketched the structure of the Fundamental Social Functions, the task of deducing the Fundamental Moral should not be particularly hard or esoteric. All that needs to be done, actually, is to show which are the norms that make the materialization of each of the Fundamental Social

* It could be argued that I do not have an obligation to feed B just because he is a person, and that if I in fact do feed him it is because I expect him to be of some use to me. This may even be partly true, but in no way alters my argument. In a capitalist society, for instance, many 'persons' starve to death and not many of their peers seem to mind. But all this shows is that no one has in this society a prima facie obligation to feed his peers; rather, only an obligation to recognize their 'right' to eat. What is misleading is the fact that this right is not isolated but hooked to a set of other rights and obligations, both contingently and necessarily so. That is, a person living in a capitalist society has the right to eat, but this right is hooked to his obligation to work, for example, in such a way that his peers assume that his failure to work exonerates them from their obligation to feed him. Furthermore, it is not clear whether in fact all the citizens of a capitalist society are perceived as full persons. Many a doubt, I think, could be raised in this respect.

Functions possible. Another way of putting this would be to say that what we are after are the norms that define or determine the behavior of persons.

Furthermore, having established that the substance of law and morality is one and the same thing, it follows that there is no need to postulate as necessary the existence of an institution of morality absolutely independent from the institutions that materialize the other fundamental social functions, since all the norms that materialize these functions, materialize at the same time the fundamental social function of morality. The reason why in spite of this we have to distinguish the fundamental social function of morality from all the other is that, as we have seen, its nucleus is constituted by the multirelational character of human nature, a character not reducible to those determining the other fundamental social functions. At the end, it is this character which gives all the others their typically human flavor, by determining the form in which all the fundamental social functions that they in turn determine are instantiated. So, finally, a society of men is essentially different from a society of ants, because the latter, being composed of uni-relational entities, lacks morality in the most precise sense of the word. That is, the institutions of animal societies do not simultaneously instantiate the social functions that they are *prima facie* supposed to instantiate, and morality, but rather only the former. This is precisely why they can be compared to an organism of sorts. In order to see this clearly, let us think of these

animal societies in which the individuals undergo biological transformations to fit the role they play in their societies. Such societies are held together not because they are grounded on a system of rights and obligations, but simply because enough 'organs' have been developed to perform all the tasks required for the survival of each of the individuals and of the group as a whole. The link between individuals and classes of individuals is organic, not legal or moral.

We can see, once more, the absurdity of the discussions concerning the "enforcement of morals" as formulated traditionally. What confuses people is not only the insistence on thinking of law and morals as separate entities, a topic with which we have sufficiently dealt, but also the failure to recognize that morality is pervasive, that morality is being enforced when the laws that make education or production possible are 'enforced.' Morality concerns the whole of the social space.

There is, still, one important consequence of what we have been saying that ought to be stressed at this point. For, given that we are not postulating the existence of a particular moral institution, and that we take morality to be pervasive, the mode of deduction that we will have to follow, when deducing the norms pertaining to the fundamental social function of morality proper, will be slightly different. But let us leave this for the end.

In general, then, we will consider that the deduction of a given norm is completed when we have successfully shown

that it is a condition of possibility for the materialization of a fundamental social function. That is, what we have to show is that a given norm is a constitutive element of 'personhood,' that no person can be such, who does not abide by it. It will always be necessary to keep in mind that the persons referred to here are 'juridical' persons, inhabitants of the social space. These persons are, by definition, the subjects of all the fundamental laws, since they define their essence. This does not mean, though, that all norms have to be followed by all persons all the time. What this means is, simply, that no entity either incapable of following any of these norms or unwilling, when the occasion arises, to abide by them, can be a person. It is logically possible, then, that one juridical person might never have to participate in the defence of his society, either because his is a peaceful society or because he is too old to go to war when war finally breaks out. What is incompatible with the concept of person is treason. This is one of the reasons why it is important to notice that there are two kinds of fundamental norms,^{*} to wit, those that demand respect or forbearances and those that demand permanent activities. Later on we will see that behind this distinction is the fundamental one between 'benevolence' and 'love.'

If one desired to do so, one could establish a list of 'rights' and 'obligations' on the basis of the list of basic

* See Chapter I, 2, b.

norms, for they tell persons how they should behave toward other persons. The rights are the same as the obligations. A person establishes what his rights are simply by thinking of himself as the passive subject of the basic norms.

Let us, then, start by presenting, for the sake of simplicity, a table of the fundamental social functions according to what was established in the first chapter:

- | | | |
|----|-----------------------------|------------------------------------|
| 1. | Fundamental Social Function | of Production; |
| 2. | " | " of Defence; |
| 3. | " | " of Health-Preservation; |
| 4. | " | " of Instruction and Training; |
| 5. | " | " of Reproduction; |
| 6. | " | " of Morality or Conductivization. |

In what follows we will discuss each of these items separately, trying to determine the laws or norms that make them possible.

b. The Fundamental Social Function of Production

That the laws of property are an indispensable part of any body of law, is an undisputed fact accepted by social scientists of all sorts. Controversies concerning this notion arise only when certain types of property arrangements are attributed the degree of necessity and universality which corresponds exclusively to the institution of property as such. In this respect, it is quite useful to think, once again, of Marx's criticism of classical political economy. That laws of property are necessary is shown in the following way: the satisfaction of the basic human needs is a prerequisite for the survival of the individuals conforming a society. Human needs

can be satisfied only if the right of persons to possess and use the goods required to carry out this satisfaction is recognized. It is obvious, therefore, that, first of all, no laws can exist in a society which absolutely prohibit the possession and utilization of goods by the persons conforming that society. But given that it is a fact of nature that the goods required for the satisfaction of human needs are scarce and, generally, have to be produced by the labor of man, it is also necessary that laws exist in all societies creating mechanisms that allow the exchange and distribution of goods and that impede the accumulation of all goods produced in a society by some persons at the expense of all others. This can be accomplished in different ways. Either by establishing a system of distribution that depends on the amount of labor and effort invested by each individual, or by introducing periodical ceremonies of distribution, or by having give-away festivities like Potlatch, etc.

But certain obligations are also generated. For, given that it is necessary that everybody be permitted to possess and use those things that allow him to satisfy his basic necessities, each person has the obligation to abstain from depriving a fellow person from those things. In the same way, given that it is indispensable that certain goods be produced through human effort, each and every person has the obligation to contribute to the process of production.

Furthermore, production requires cooperation, both in the sense that people have to work together toward the same

goal, and in the sense that, given that in most cases more than one thing has to be produced for the satisfaction of the totality of the human needs, people have to take responsibility for the execution of different tasks. In regard to the first, people have the obligation to follow 'technical rules,' that is, the rules that make a given activity viable, and to associate with fellow persons in ways that make the materialization of these rules possible. In regard to the second, people have an obligation to engage in the exchange of goods. Obviously, this kind of exchange is not possible unless criteria are established to measure the relative worth of the goods produced by the members of a society in charge of each of the branches of production, in relation to one another. This, it seems to me, does not imply that the traditional notion of exchange value is absolutely necessary, for the amounts of two kinds of goods can be said to be equivalent in function of the needs they are to satisfy. For instance, it is quite evident that quantitatively fewer pots than proteins have to be produced by any society. In real terms, then, the pottery sufficient to satisfy the needs requiring it is equivalent to the amount of proteins required to satisfy the demand for it in the population. Time does not play a role here, and that is why the labor of the pot-makers over a period of a year, and the labor invested during a comparable period by the hunters, can be said to be equal, although the latter clearly requires more time in real terms. The factor 'time' could be introduced, as Marx does in his analysis of exchange

value in terms of the time invested by the society as a whole for the education of the pot-makers. But this seems to me to be an unnecessary move, since nothing changes even if we assume the training periods of pot-makers and hunters to be equal. Therefore, the relevant factor to measure the values of labors of two different sorts in respect to one another are the needs that they help satisfy.

From what has been said it seems to follow that, at the level of use value, the economic and the moral notions of what is 'good' and 'valuable' have to be perfectly congruent, since nothing that is required for the satisfaction of basic needs can be deemed to be immoral or bad. Those who do so, place themselves outside society, although, for the most part, those who see a contradiction between appreciation of earthly goods and morality, mean by 'earthly goods' useless or superfluous ones.

So far, then, we have generated the following fundamental moral norms relating to the fundamental social function of production:

1. Persons should not steal, they should not deprive others of what is assigned to them as their possessions.
2. Persons should practice liberality, they should not refuse to share with others the product of their labor. This could also be formulated by saying: persons should not be egoists, they should not demand more than is their share.
3. Persons should not be lazy, they should not refuse to contribute to the task of producing when required to do so.

4. Persons should be forthcoming, they should not be unwilling to cooperate with others.

Clearly, certain rights correspond to each of these obligations, for if I have an obligation to abstain from robbery because other persons are persons, and if I am a person, I have the right to demand that my possessions be protected. One can reason in the same way for each of the other cases. We will see that in general there is a symmetry between obligations and rights. It is obvious, nonetheless, that all societies require mechanisms that can allow individuals to break the symmetry in some cases; these mechanisms necessitate the virtue that we could call 'generosity,' which prompts me to do my obligations without expecting everybody else to do the same. Such an allowance is mostly necessary to ensure the survival of the sick, the crippled and the old. Children are not to be included in this list, because, by definition, they are not full persons, although we can imagine that certain allowances are conceivable during periods of transition between childhood and maturity. Contrary to what some anthropologists seem to think, no society based on a strict system of reciprocity is possible. Such a society would not be able to subsist over a long period of time. In fact, there seems to be considerable empirical evidence to show that there is a correlation between scarcity and inflexibility in the sense in which we are using the word here. That is, a society tends to be less flexible, the more difficult it finds to survive. This is why it is not surprising at all that Kohlberg's studies

show that, among the poor, first stage, strict retributionist morality is prevalent.⁶⁴ But let us go back to our main business.

c. The Fundamental Social Function of Defense

Because men are vulnerable to the attack of other men and predatory animals, both in the sense that they can lose their lives or be incapacitated, and in the sense that they can be deprived of their possessions, the Fundamental Social Function of Defense is necessary for the preservation of society.

Now, the protection of the group requires that all or some of its members be able to engage in combat with those threatening it. But this in turn requires that at least those who are in fact going to engage in combat be physically and mentally prepared to endure pain and, in general, that they be able to deploy all their capacities, somatic and others, in time of war. From this, certain norms follow:

5. Persons who go to war should not behave cowardly, they should not refuse to confront the enemies of the group when it becomes necessary to defend its territory or its members.
6. Persons who are to go to war ought to maintain themselves physically and mentally be ready to fight.
7. Persons should wage war only under the orders of the group; never against the group. Or, persons should wage war only against non-persons.

Again, it is quite clear that in order to accommodate the 'rights' that correspond to the first norm of the Fundamental Social Function of Defense, a certain degree of flexibility

is necessary. For, when a 'soldier' suffers an injury in battle, he has the right to expect that his fellow persons will exempt him from participating in other activities, given that the value of defense is equivalent to the value of any of the other activities necessary for the survival of society. Strictly speaking, then, war can lawfully be waged only against non-persons. Persons with arms are not exempted of the obligation to avoid harming or abusing their fellow persons.

The third norm is necessary both to prevent armed men from turning against their own society, especially when they constitute a group not identical with the ruling group, and to prevent single individuals from engaging in 'private' wars that could cause unnecessary hardships to the rest of the community. This, together with the concern for efficiency, accounts for the emphasis on 'discipline' among the military.

It should be evident that when the environment surrounding a given society is particularly hostile, we ought to expect the worth of defense activities in relation to the worth of other activities to rise, and, with this, the tendency of the military to occupy positions of power. On the other hand, it should be equally obvious why it is that those who are not required to participate in military activities are sometimes regarded as semi-persons. For in those societies in which warfare is the principal means of survival, individuals not capable of engaging in combat are simply not capable of behaving like full persons.

d. Fundamental Social Function of Health Preservation

There are two main sides to the preservation of health by the individuals of a society. Sickness and injury have to be avoided, but, once they have fallen upon an individual, they have to be removed and, also, isolated. The first is accomplished by norms demanding prudence:

8. Persons should not seek danger unnecessarily; or, persons ought to be prudent and consider the consequences of their behavior for their own physical integrity and that of others. Or, persons should show respect and regard for the safety of others.

The derivation of the norms pertaining to the second condition needs some more work. Obviously, such norms cannot demand that sickness be in fact removed, for their fulfillment would require the possession of comprehensive knowledge of nature and human nature. But, if the possession of such knowledge is required to comply with a rule that, in turn, contributes to the materialization of a necessary condition of social life, then we would have to commit ourselves to the view that human societies have never existed. So, if we call the art of attempting to remove illness 'medicine,' it follows from what has been said that the justification for the existence of this art in human societies is not to be sought in its effectiveness. An ineffective variety of medicine is as necessary as one that is very effective. This paradoxical claim helps account for one of the most puzzling facts concerning so-called 'primitive societies.' For the most part, with, as we know now, remarkable exceptions, witchcraft and primitive medicine are fairly ineffective, and their curative capacities

are, to say the least, limited. So, if effectiveness alone were the criterion for the acceptance or rejection of medical practices of that sort by the members of human communities, we would have to expect that after a very short period of time, no one would be willing to submit himself to those practices, nor should we expect medicine to remain a respectable profession. The more or less traditional thesis that witchcraft survives thanks to its supra-terrestrial or religious connections does not seem to me to be totally satisfactory, although it is clearly partly true. The reason why reference to religion is not enough to account for the survival of ineffective sorts of medicine is that it cannot explain why they survive even in environments in which they are in no way connected to religion without being, because of that, short in advocates and followers.

If not effectiveness and success, something else must provide the basis for medicine. It is to this something else that the fundamental social norm that we are seeking to deduce must refer. Now, although we cannot command that a person be cured whenever he is sick, unless curing him is accidentally possible, we can always command that he be taken care of, that he be attended and helped. And this is all that is required for the materialization of the second facet of the fundamental social function of health care. Consequently, the norm can be expressed as follows:

9. Persons should care for the sick, they should not be indifferent towards the suffering of others; or simply, persons ought to show compassion.

Mainly, then, the reason why you call in the witch-doctor is to show compassion toward those who are sick, and this is also the reason why his 'work' is valued by the community of which he is a member. To a great extent, the fact that people are increasingly skeptical concerning contemporary medicine and turn to other forms of medical care is explainable in terms of the insistence of doctors to relate the quality of their performance to the salary they are paid. For, in doing so, they are indicating that they are not willing to perform the task that, by nature, they ought to be performing, to wit, be the carriers of the concern of the whole community for the persons who are sick. To say of somebody that he does not deserve to be cured because he cannot afford to pay for the treatment, is to deny him the quality of personhood. The problem here is not that doctors want to be paid, for there is nothing intrinsically wrong with that, given that they perform an indispensable social service equal in value to any other necessary social service. The problem is that some doctors of today fail to see that if they are paid, it is not solely because they cure people, but rather because they show compassion for them. If this were not the case, it would be impossible to understand why patients with terminal illnesses are entrusted to doctors.

But sickness has to be isolated, which is not to say that the institution of quarantine is a necessary one, but rather that there is an intrinsic need to control and impede the spreading of disease from one or a few persons, to all

the persons of a society. Obviously, keeping the sick in quarantine is a good way of achieving this objective, but such a practice presupposes knowledge of the existence of contagious diseases, that is to say, awareness that in some cases a person can act as carrier of a disease and that contact with an infected person can result in acquisition of the disease. This type of knowledge is elementary enough, but it can hardly be said to be necessary. Besides, it relates to specific kinds of illnesses, and not to illness as such, and this is what needs to be perceived as evil. In other words, what is important to isolate is not a person, or a certain illness, but illness as such, illness generaliter. Such a need is consistent with carrying the relative infected with pest away to a city that is, so far, free from it. So, if a person is in fact isolated or put in quarantine, this is mostly an indication that the group desires to stop the advance of a disease, a desire that, by the way, has to be shared by the sick person himself, whose voluntary submission to isolation is a sign of his regard for the rest of the community.

One norm makes all this possible:

10. Persons ought to attempt to stop the spread of disease.

A different way of exhibiting the rationale for this last norm is by pointing out the effect of disease on persons. Mostly what disease does to persons is to incapacitate them for the performance of their roles in relation to the materialization of the universal moral norms. Although a society can be

flexible, as we have seen, in relation to the impotence of a small group of persons, it cannot survive if this group grows beyond a certain threshold. The awareness of this fact is what underlies the efforts to stop the advance of disease.

Death is often thought to put an end to the obligations and duties of a person, as well as to the obligations that other persons have toward him. This would seem a perfectly acceptable thesis, if it were not contradicted by the practice of all known cultures, all of which go to great pains to take good care of their dead. The way the body of a person is disposed of is sometimes perceived as more important than the way it was fed while the person was still alive. In most societies, burials and matrimonies are the main events in a person's life.

One thing at least is perfectly clear relating to the death of persons: those who die are the ones the least concerned with what happens to their bodies. Whatever happens to them depends entirely on those who remain alive. So, the question should be, why is it that those who stay alive think it their responsibility to engage in complicated rituals to dispose of the body of persons who have died? Like always, the answer should be "because they are (were) persons." That is to say, if burial ceremonies are due to persons because they are persons,, they must be, in some way or other, necessary constituents of social life.

Actually, there are only three things that one can do with a body: attempt to preserve it, destroy it or allow it

to decompose following the normal pace of nature. There are innumerable examples to illustrate the point that all these things have been done at one time or another, in some place or another to persons as well as to slaves. So, it is not what is done to the body of persons, but simply the fact that something is done to them, that is not done to the body of semi or non-persons, where the secret, if there is any, must lie.

Again, someone may argue that to understand the nature of burial ceremonies we have to look at their religious meaning. It is, after all, a well-known fact that the mummification of bodies is often times justified in terms of the belief in an afterlife. But this does not explain why the bodies of Lenin and Mao have been preserved. Not even references to the survival of the deep-rooted religious collective subconscious of the Russian people would do the job. For this explanation fails to clarify the differences between these cases and those in which religious justifications are given openly and directly. That is, in the final analysis, the religious hypothesis fails to account for the specificity of the cases involving self-proclaimed atheistic societies.

For exactly the same reasons we shall not take too seriously the official explanations of political character given in such societies. What this argument shows, then, is that unless we want to commit ourselves to the implausible view that all religious manifestations in human societies are political or vice versa, we have to attempt to find a deeper common characteristic of cultural phenomena, that can take

either political or religious appearance, in order to be able to understand the true meaning of such phenomena.

Let us think of a story that has proven to be philosophically useful more than once to try to see why there have to be institutions concerned with the death of persons. What I have in mind is the story of Antigone and her desperate attempts to bury her brother. She feels obliged to do so by Divine Law, while his uncle, the King, feels obliged to impede the burial by Civil or Human Law. That Creon, as head of state, has no alternative, becomes clear if we recall the universal moral norm of the fundamental social function of defense according to which one should never turn against one's own group. Having violated that law, Antigone's brother has automatically lost his personhood and, with it, his right to be buried as such. He is a traitor. But, traitor or not, Antigone feels that she is united to him by a bond superior to those that Creon considers most important. We have not yet studied the nature of that bond, but this does not affect our argument, for what is really important in this context is, simply, to notice that the conflict is between two extensionally different conceptions of person. For Creon, persons are all those who belong to the state; for Antigone persons are primarily those who belong to the family group. The tragic dilemma for her, then, is not that she has to choose between obeying the laws of the state or the law of God, but that her two brothers have turned against each other. The reason why

Creon's plight does not strike us as particularly tragic is that his choice is made for him in advance. As a King he has to treat both Antigone and his brother as traitors, the latter for the reasons stated above, the former for choosing a limit for the notion of 'person' incompatible with the existence of the Theban state.

So, what Antigone refuses to recognize is that she and all the other persons of Thebes ceased to have any responsibilities toward her brother as soon as he became a traitor. It might seem paradoxical or even contradictory to insinuate that one may have responsibilities toward the dead, but this is exactly what follows if, in fact, there are universal norms regulating burial procedures. Obviously, the basis for such responsibilities must lie in the actions performed by a person before his death. During their lives, persons are a part to certain relationship that, by necessity, involved all or some of the persons of their societies. Now, some of these relations at least, such as family and property relations, are the instantiations of fundamental social norms and, hence, are basic components of the juridical structure of the society. If they were to be dissolved each time a person dies, death would become a source of permanent trouble, since scores of persons would be periodically excluded from society for reasons totally escaping their control. The death of a person, for instance, would be tantamount to the exclusion of his immediate relatives from the social bond. It is absolutely necessary, therefore, that every time a person dies, the

commitment of all these related to him to the responsibilities generated during his life time be reaffirmed. Only so can the permanence of human society be guaranteed. This is especially important when persons occupying high offices die, since the official burial ceremonies signal the continuation of the commitment of the entire group to the social relations already in existence.

Perhaps a good way of understanding this is by thinking of property relationships. The importance of property relations for the subsistence of society makes it mandatory that procedures be established to avoid a disruption of the prevailing order every time somebody dies. On the other hand, it should be clear now why confiscation of property tends to be such a prevalent form of punishment in relation to traitors; property is a right that belongs exclusively to persons and that, thus, can be taken away when personhood is lost.*

So, at this point we can formulate one more universal moral norm:

11. Persons ought to show respect for the dead; or, persons should honor the memory of the dead.

Why people are particularly concerned by the death of their relatives will become clear when we discuss the nature of family relations; and why it is that people are particularly

* In some societies this whole point is made quite explicit by developing the belief that the dead can return once in awhile to check whether their interests and the proper traditions are being safeguarded. And they can get quite upset when this is not the case.

shocked by the death of some relatives and friends, will become clear when we discuss the nature of love.

One of the most interesting aspects of Western history have been the attempts to decide what is the period of time that should be devoted to work every day of the week. Especially since the Industrial Revolution, important issues of justice have entered the discussion. Something similar is beginning to occur concerning the distribution of space, as illustrated by the disputes surrounding the notion of 'zoning.' All the writers of social utopias have felt that there was a need to make proposals for the ideal distribution of time and space and, furthermore, to offer a 'rational' justification for their proposals. What 'rational' means in this context is not clear. Certainly, there is nothing rational, in the sense of necessary, with the arrangements presently accepted in most societies. Most of them, if we are to believe what little the historians have to say about the subject, derive from vague, although basically true conceptions elaborated by medieval monks. According to this conception, given that there are three basic functions of life--work, worship and rest--the day should be divided so as to allow identical periods of time to be devoted to each of these activities. The Anarchists who fought for the eight hour work-day had similar theories, as probably most of us do, particularly if the worship component can be replaced by the more attractive notion of fun or entertainment.⁶⁵

Psychologists and physicians like to argue concerning the amount of rest, measured in hours, that the human psyche and body need in order to perform their functions properly. Most of them agree that the ideal amount is subject to change with age and other such factors. What is clear and undeniable is that some time is necessary for rest and some for work. For, without the first, the human body would collapse, and without the latter it would, at the very least, die of starvation, since, as far as is known, no one yet lives in Schlarafenland and, to use E. Bloch's beautiful phrase, "hunger still runs through human life." Whether periods of time devoted to fun or worship are indispensable is not so evident. But let us examine what it is that makes the distribution of time a necessity.

It has always amazed me how little philosophers have inquired into the nature of time. True, some efforts have been made to elucidate the notion of 'physical' or 'natural' time and since the development of the Theory of Relativity the investigation of this issue has taken some quite fascinating turns. But apart from the relatively recent speculations of some phenomenologists, little has been said concerning the form of time that is most immediate to human experience, to wit, social time. The question of social time is not the question of the perception of time that interests the psychologists. This issue, together with the question of the nature of physical time, are secondary issues, for it is only in the

unilateral imagination of philosophers that the measurement of time has been undertaken by men of all ages for the sake of mere intellectual curiosity. A means to measure and, hence, to divide time is necessary, because there is a need to allocate periods of time for the performance of the different tasks of life. So, as long as some kind of criterion for measurement is proposed, it is irrelevant, from the point of view of social existence, whether it is arbitrary or not. On the other hand, how, in general, time has to be allocated, follows from what we have been saying. For, if it is true that there are fundamental social functions, it follows that some time out of the total time of each person's life span has to be set aside for his continual participation in each of the fundamental social functions. So, for example, some time has to be destined for participation in the fundamental social function of production, and some time for participation in the fundamental social function of health-preservation. The periods that we reserve for rest are part of the time consumed by this last function.

At this point, somebody could object that it is not obvious that every person has to participate in each of the social functions, so that it might be the case that some persons do not need to devote time to one or more social functions. There are two things to be said in response to this argument. First, it can easily be shown that all persons have to devote time to at least some of the functions, the function of health-preservation being one of these, since no person can survive

without rest or nourishment. Second, although it would seem that not all persons have to participate in the functions of production and defense, this does not constitute a counter-example to our thesis that time has to be divided, because, a) at least some persons have to be occupied with these functions or with activities relating to them, and b) those persons not occupied with these functions need to devote some time to the performance of other fundamental social functions, to wit, enough time to generate the amount of value equivalent to the value generated by those involved in production or defense, or must have a valid excuse for not going to war or for not working, such as old age, for instance. In fact, the division of labor is necessary precisely because many of the fundamental social functions have to be materialized simultaneously.

A very interesting question that suggests itself in this connection is whether the Sabbath or resting day is necessary. One could even make the question more comprehensive and ask whether periods of holidays, that is, periods during which people who participate regularly in such fundamental social functions like production are allowed to take a break. Several matters have to be considered before the question can be answered.

Assuming that such periods are necessary, one would have to determine whether they are so in relation to all the fundamental social functions that can cease to be performed

for a period of time,* or only in relation to some or to one of these functions. Also, if sabbaths or holidays are necessary, they must be so for reasons other than those that make the daily or more regular resting periods necessary, since the latter, if they are indeed indispensable, should be sufficient to satisfy the needs that generate them.

In order to study this issue, let us imagine a very poor society, such that its members have to work incessantly, without being able to stop their work completely at any given moment. Let us further imagine that to keep the mechanisms of production going without interruptions, they have established a system of turns, so that not all have to work at the same time and some are always free to rest and to perform all the other social functions. Now, let us ask in regard to this society whether a period is necessary during which all the members of the society rest simultaneously. Obviously, the need for such a period has to be fairly fundamental, given that its celebration would imply days of fasting and other hardships.

*This qualification is needed because such functions as health-preservation and defense cannot be suspended totally during any period, although obviously they may be partially suspended. Days of fasting, vigils, and the designation of periods of peace like the one that helped prolong Socrates' life, are examples of such partial suspensions. Besides, there is a contradiction involved in the affirmation that the performance of all social functions can be simultaneously suspended. For, what such affirmation really means is that in order to preserve the social bond, the social bond must be dissolved. Probably, the closest one can get to the dissolution of the social bond is the celebration of a traditional carnival. But even in this case, the rule of only some, not of all the basic moral norms is temporarily lifted. Even in the midst of the wildest of carnivals, no one is allowed to kill.

Suppose that in order to avoid these hardships the people of this miserable society decide not to have holidays. The crucial question in that case being whether such a society does still deserve the name of society. If this is the case, then we are assuming that not a single one of the fundamental social functions requires that all persons be ever engaged in its materialization at the same time. It is important to realize that we are talking about a society that does not possess the institution of slavery or its equivalents, for in a society where such an institution exists persons can easily find time for holidays, all they need to do is make sure that the slaves take turns doing their jobs. Aristotle was perfectly aware of this fact, and this is why he maintains that only free man can partake of the good-life. Of course, he had assumed what we are trying to prove, namely, that there are some social functions the materialization of which requires that all persons participate periodically in the activities relating to them. His justification of the institution of slavery depends precisely on this assumption.

In order to establish whether there are fundamental social functions that require the celebration of holidays, we have to examine complex societies, since the simpler a society is, the more acute is the likelihood that all its members know each other and/or are related by emotional ties. Let us then think of a society where the persons do not all know each other and where the division of labor is well developed. Are holidays necessary in such a society? What is it that is

celebrated during holidays? In Western societies, at least, a division is made between religious and civil festivities. But I doubt that this division is a reflection of some necessary trait of social life in general, for it makes sense only against the historical background of the separation of Church and State. We can think both of a state in which all holidays are religious and of one in which all festivities are civic. So, it would seem that the pretext for a holiday is not what characterizes it essentially. The same can be said concerning Sundays, for if their religious justification were the real reason why they are set apart as days of rest, then they would have long banished from Western societies. As a matter of fact, the tendency seems to be to push for the creation of more 'leisure' time. This has always been a major goal in any program aiming at the emancipation of the workers, suggesting that they perceive the increase of leisure time as a 'right' that, once obtained, will enhance their condition as persons.

But, what is it that people do during their holidays? It has become a fairly common thing to hear well-meaning, usually conservative and not very imaginative persons, warn us about the dangers of the multiplication of leisure. The argument is that people do not know what to do when they are not working or sleeping. Some wise intellectuals see the solution in a widespread interest in the arts; more realistic but not less narrowminded businessmen suggest, on the other hand, that people should invest their free time acquiring

unnecessary goods. Obviously, the appearance that the serious sociological problem of the 'use' of leisure time takes in Western, industrialized societies is not the only appearance that it can adopt. Besides, what underlies these recommendations is the clearly false assumption that 'working' is the only obligation that a person really has. For leisure is conceived as 'time-off-work.' Now, we have already established that time has to be allocated for the realization of all fundamental social functions, so that, leisure in the limited sense of time during which there is absolutely nothing that has to be done, is to be carefully distinguished from the notion of leisure as time-off-work. In consequence, given a certain period of time reserved as a holiday in the narrow sense of time-off-work, not all of this time can be devoted to leisure in the general sense of the word. But, of course, it might well be that the division of the day is enough to take care of all obligations and so, we are back to where we started, unless we find an obligation or necessity inherent to the notion of person the materialization of which demands that long periods be set aside for its sake.

In order to create in the United States conditions similar to those of the miserable society we described above, all we need to do is imagine that class distinctions solidify to the point that no social mobility is possible. If this happens, the members of the different classes will not relate to each other according to the same rules, that is, there will not be a relation of reciprocity between them, for the

subject of obligations will not be at the same time, a possessor of rights equivalent to these obligations. In other words, if this happens, the members of the lower classes will have lost at least part of their personhood. Such a society is certainly possible. What is not possible is to call all those living in it 'persons,' for the notion of 'persons' implies, as we have seen, that any given person can relate to any other given person according to a unique set of rules equally applicable to both. As we will see, this is a consequence of the fundamental social function of conductivization or morality. But the concept of juridical or social relations itself requires that this be possible. Insofar as I am a person I should be able to move freely in the social space, that is, I should be able to relate to any person in any point of the social space. This very general need requires that enough time be destined for these relationships to develop, irrespective of whether they in fact develop, and this is the primary meaning of the periods of holidays. No person is fully a person, who is condemned to perform a single activity throughout his life, especially if the performance of this activity is associated with the loss of certain alternatives.

Several things follow from this. In the first place we are now in a position to answer the question whether the miserable society described above is possible. The answer is 'no.' No, unless a number of its members are deprived of their personhood. No society of persons can subsist without periods during which all persons, with the sole exception of those

needed to perform the basic social functions that cannot be suspended, are granted holidays.

It should be clear also that there must be a correlation between the complexity of a society and the length of its holidays. The more complex a society is, the longer its holidays. As a matter of fact, in simple societies, where all or most members know each other, holidays and week-ends tend to be confused.

A great deal of the apparent implausibility of this thesis can be dissipated if one thinks of the kinds of collective sentiments that prevail during holidays. It is particularly during holidays that people attempt to hide their differences, so to say, they all dress in Sunday clothing. Carnival, the period during which anybody can be anything is, perhaps, the clearest example of this.

Connected, but not entirely identical with the primary function of holidays, is the need to reaffirm periodically the collective commitment to the social bond. In the modern national states this takes the form of national holidays. In some other societies it might surface, as we have seen, as a day of remembering the forefathers. Such celebrations are not a waste of time, as some would have it, but a reiteration of the fundamental act of rationality, that is, a reiteration by each individual that his commitment to the norms that make his society possible is still in force.

From all that has been said in the last pages one more fundamental norm follows:

12. Persons should time their activities properly, i.e., they should be able to participate in the materialization of all the fundamental social functions.

As far as I know, geographers and economists have been those most interested in the structure of the social space and in the rules governing the allocation of space. Again, philosophers have little to say on this matter. But that space is a primary component of social life is obvious. What is not so obvious is the relationship between social and physical or, better, geographical space. We have seen that social relations are conceivable between people who do not occupy the same geographical space. The first question, then, should be whether it is also conceivable for a society to exist which lacks a location in the geographical space. Another, clearer way of putting this would be to ask whether a society is possible which lacks a territory. There is at least one reason to say that this is not possible. The reason is provided by the fundamental social function of production. The minimum of territory required for a society is, consequently, the territory necessary for the materialization of the fundamental social function of production. This explains why, of necessity, the defense of this minimum of territory has to be one of the primary functions of the military.

But once this has been established, a second question naturally arises: is more territory than the minimum just determined necessary for the materialization of society? I think the answer is no, for none of the other social functions

demand additional territory; all they demand is a certain organization of the available geographical space. This is true especially of the function of health preservation, which requires that space be allocated for the edification of resting places, meeting places and special areas for the satisfaction of bodily needs related to the processes of nourishment and metabolism. We can see that in this case there must be a certain correspondence between the allocation of time and space. But this should be no surprise, since the forces determining both are the same.

The fundamental social functions of reproduction and instruction require that some space be set aside for use by children, who can neither participate in the tasks of production, nor protect themselves, and who need to be instructed. This does not mean that space for 'schools' or their equivalents is necessary, for much if not all the instruction can certainly be done 'in the field.'

What has been said so far, does certainly not exhaust the topic, but is nonetheless enough to show that a fundamental norm relating to the allocation of space is necessary:

13. Persons ought to allocate and demarcate a territory so that all fundamental social functions can materialize.

As a digression, and before leaving this issue, let us ask whether there is a maximum territory that societies can claim as theirs. The word 'claim' in this context is relatively misleading, for it seems to insinuate that societies possess, as a matter of fact, a certain inherent 'right'

to lay claim on portions of territory. This is evidently not the case, for such a right presupposes the existence of contracts or agreements binding all existing societies (or, at least, all neighboring states). But different societies have, by definition, nothing in common, so that any contracts or agreements between them must be explicit and capable of being dated or else be the result of lack of interest. Considering what has just been said, somebody could be tempted to resurrect the old and popular thesis that the maximum of territory that states can have is the territory that they can in fact hold and defend. The only problem with this thesis is that counter-examples to it abound. There are, indeed, many societies that have much less territory than they could possibly defend against a foreign attack, while there are also innumerable societies that could not possibly defend the territories they possess against an aggression by one of their neighbors. In reality, territorial limits are set, mostly, by what in general we could call 'international agreements,' which can be tacit or explicit.

There is, nonetheless, a way in which the thesis that we are discussing can be understood, that sheds light on one of the important aspects of warfare. Picture a crowded world composed of nations with expanding populations and, hence, with constantly increasing territorial needs. In that case, it would seem correct to claim that the maximum territory a state can have is the territory it can defend and hold. But, most likely, in such circumstances the maximum and minimum

are not going to be very far apart, unless, of course, the conquest of additional territory by a given society is accompanied by genocide.

At any rate, it seems to me that the only thing that can safely be concluded from all this is that there is no need to determine a maximum territory for a society, save in the limited sense of a territory that could not be defended but at the cost of its destruction.

At the beginning of the discussion concerning the allocation of space, we reminded ourselves of the fact that persons leaving the geographical space can still be said to have remained in the social space. But there is an intriguing question to be asked in this respect: how many persons can simultaneously leave the geographical space assigned to their society without causing its desintegration? Undeniably, if all Peruvians left Peru simultaneously, nothing much would be left of Peru, save an empty piece of land that, furthermore, is not likely to remain in that stage for a long time, given that, as we know all too well, national states 'abhor vacuum.' When all members of a society leave simultaneously the territory assigned to them, the real consequence is the abolition of the social bond. Therefore, a norm is necessary to prevent this from happening. So, the limits of the liberality of the state concerning the freedom of movement of its members are set by the need to keep those social functions from collapsing, the collapse of which would lead to the dissolution of the social bond.

14. All persons should not leave the geographical space simultaneously.

e. The Fundamental Social Function of Instruction and Training

Without pretending to be a soothsayer or witch, I would dare to predict, nevertheless, that Ivan Illich's criticism of the institutions of schooling of modern societies⁶⁶ will turn out to be one of the most lasting sociological studies of our age. Among many other things, Illich's study is important because it proves that education, training and instruction ought not to be confused. That is to say, education, understood as the sort of training given in schools, is not a necessary and not even a desirable trait of society. But if schooling is not necessary, the same cannot be said of instruction and training. Why they are necessary, we have now to show.

A society can perpetuate itself only if the vast majority of its members, a) know the basic rules that make possible the materialization of fundamental social norms, b) if they master the skills required to follow those norms and to relate to each other according to them and, c) if they are sufficiently acquainted with the conditions of their environment directly related to the materializations of these norms. All those things that persons need to know, we will call 'cognitive universals.' At this point it is not necessary to discuss in detail each of the cognitive universals, for all we have to establish in order to deduce the fundamental norms connected to them is show that they indeed exist and that

they demand the existence of the institution of training and instruction.

That a) describes a set of necessary conditions for human social existence is self-evident and does not need of further clarification. It could be argued, nonetheless, that given that all fundamental social norms are, so to say, learned through the primordial act of rationality, no specialized institutions are required to instruct the young in their meaning. Two remarks have to be made in relation to this. We have seen several times now that it is not clear, a priori, whether children fully understand the necessity inherent to the fundamental social norms.* It seems, rather, that their lack of full understanding, i.e., the fact that they have not completely performed the primordial act of rationality, is what distinguishes them as children, in which case instruction is required to help them reach that point. But even if we choose not to adopt this line of argument, there is another fact that cannot be ignored and that forces upon us the same conclusion. Children living in real societies not only have to come to understand all fundamental social norms and, hence, the concept of person in general, but also the extensional limitations attached to this concept in their societies, i.e., those norms that we have called contingently necessary, namely, necessary for the subsistence of the particular society in

*What is obvious is that they have some understanding, for otherwise they would not be perceived as prospective persons.

which they are to live. This knowledge is undeniably not innate, but has to be acquired through instruction and training.

But it could be argued that this knowledge is inherent in the language spoken in any society, and that therefore no especial effort needs to be invested in teaching it to children. This very plausible argument proves, at most, that no specialized institutions for 'moral' training are needed, but it does not prove that training as such is not needed, since nothing can be more obvious than the need to instruct people in the use of language. And this takes us directly to the discussion of the cognitive universals in group b). The principal of this universals is, by far, language, the one tool that makes interpersonal communication possible at the level required for the existence of human societies. Without language only the most primitive affective relations could be established between people. A human society requires that all persons living in the social space be able to relate to each other without necessarily establishing immediate contact, and to achieve this, a medium capable of spreading information over the entirety of the social space is indispensable. This can be done with more or less speed and efficiency, but it must be done, and language is the only means available to humans for that purpose.

On the other hand, the social functions of production and defense require that people be trained in the skills and

techniques necessary for conducting the activities that materialize them. These techniques vary in each society.

Furthermore, given that humans have a finite intellectual capacity and limited gnoseological power, they rely for the acquisition of information regarding the conditions of other humans relevant to their own action, and for the acquisition of technical knowledge, on the good will of other persons. Persons, then, ought to be willing to communicate information relevant to the materialization of the fundamental social norms and, at the very least, they should not attempt to block the flow of such information.

So, it is clear that three kinds of norms are necessary for the materialization of the fundamental social function of instruction and training:

15. Persons should instruct and provide training for the young and, in general, for all persons in need of it.
16. Persons should not attempt to impede the flow of information relevant to the materialization of the fundamental social functions.
17. Persons ought to attempt to preserve the cultural patrimony of their societies.

f. The Fundamental Social Function of Reproduction

Of the many utopian communities that sprung all over the United States in the XVIII and XIX centuries, the Shaker communities survived the longest. To a great extent this has to do with the fact that the Shakers were not, for the most part, unlike, for example, the members of Brook Farm or New

Harmony, intellectuals with more commitment to ideals than practical abilities. The Shakers were able to combine a high degree of commitment, with no less discipline and, above all, with astounding inventiveness and ingenuity. These qualities allowed them to retain, for a long period of time, a considerable degree of independence. This independence and, finally, the whole movement were lost because of one thing: their refusal to indulge in the minimum of carnal contact required for the reproduction of the human species. If the Catholic Church has been able to survive as an institution for so long it is, simply, because the interdiction to engage in sexual intercourse does not apply to all its members, but only to a selected few.

Given their stubbornness, the only alternative open to the Shakers would have been to make themselves immortal.* For, although this would have probably led them to question their whole view of the world, since extreme renunciation does not seem to make very much sense if one is not going to die, this, at least in principle, would have allowed them to perpetuate their societies. But humans are finite and their works, including the societies they organize, can be perpetuated and preserved only through reproduction, i.e., by the generation of new human beings.

*Of course, the Shakers could also have become kid-nappers. But although the sequestration of children and women is a common practice, no stable society can depend on it. At least no stable society devoted to peace and worship, for sequestration usually leads to war and conflict.

The problem is that reproduction is not as easy as it may, at first sight, seem to be. The first matter to be solved is to ensure the provision of an adequate amount of females. It is no wonder that so many a battle has been fought for the sake of women, nor that one of the most universal and powerful myths should be the one of the 'eternal feminine.' From the point of view of reproduction, females are, so to speak, more valuable than men.

But once enough women have been secured, it is necessary to establish a system for their orderly mating with men. Americo Vespucci says in one of his letters that the Indians he encountered in the Caribbean did not seem to have any rules governing their behavior in this respect. We really do not need the immense mass of anthropological information accumulated in the last decades to prove that he was a poor observer, at least insofar as this issue is concerned. For no human society without precise mating rules is possible. This is not to say that periods of promiscuity cannot occur. Examples of just such periods are innumerable and can be found in any era of human history. As a matter of fact, total promiscuity has been proposed more than once as the final means for the liberation of mankind. But the existence of promiscuity does not necessarily indicate the absence of mating rules. This becomes evident when one realizes that what really matters is not how people mate with each other, but the reason why they mate. Let us explain this.

Aristotle, as is well-known, believes that promiscuity is incompatible with the existence of a good state, because it, like communal property, would result in the negation of the essence of the state, that he calls 'plurality.' For if everything is held in common, absolute unity will prevail, given that the difference between individuals is marked primarily by private property. This, of course, assumes that women are treated as property, but, certainly, this is not a necessary trait of human society. Equally weak, in my opinion, is the argument that because certain undesirable emotions like 'jealousy' and 'anger' are or can be generated in connection with the relations between the sexes, norms ought to exist clearly regulating these relations. In the first place, there is no reason to believe that emotions are the cause of moral norms and, hence, that emotions are prior to moral norms. In fact, we will see that emotions are dependent on moral norms and regulated by them, at least those that can be morally relevant. Furthermore, there are more examples that can be handled to show that in different societies, different emotions are attached to the same kind of relations. So that while promiscuity is likely to anger the citizen of a certain state, it might well leave those of the neighboring state perfectly indifferent. It seems, then, that what is in question here is not anybody's bad temper, but something else.

In general, confusion regarding this issue arises when the assumption is made that sexual activity as such is morally relevant. In fact, there is no reason whatsoever to think

that sexual activity, conceived as a source of pleasure, has to be regulated for human society to exist. Sexual activity is morally relevant only insofar as it is related to reproduction, since it, reproduction, has to be regulated. And it has to be regulated mostly because responsibilities toward children need to be assigned to each member of society with absolute precision. The reasons for this are, primarily, the demands deriving from the fundamental social function of instruction and training, and the fundamental social function of health-preservation. The rules regulating responsibilities toward children define the legal status of children as prospective or semi-persons, for they exhibit the existence of institutionalized concern for them and for their well-being.

It is clear, on the other hand, that rules demanding that children reciprocate the concern shown by their lawful tutors are necessary, for these tutors constitute their most immediate link to the rest of society.

Three norms derive from this:

18. Persons ought to take care of children and, particularly, of those of whom they are the tutors.
19. Children must love, respect their tutors.
20. Persons should not attempt to reproduce outside the established order.

If there is such a thing as a decadent society, the signs of decadence will not be a weakening of its military or economic strength but, mostly, a massive refusal by its citizens to procreate and rear children. This is precisely why

societies that propose extreme individualism as their greatest value are not likely to survive for a long period, unless, of course, the cult of individualism is replaced by a not less fanatic cult of collectivism. I see in this dialectical process one of the real connections between capitalist individualism and fascist collectivism. It is not surprising at all that the technobureaucrats of both black and red fascist states tend to be extremely conservative in their moral views, loudly proclaiming the great need to preserve the reproductive institutions of their societies, and to take good care of the children, if only to send them later to die in absurd wars.

g. The Fundamental Social Function of Morality or Conductivization

The fundamental social function of morality, we have seen, is determined by the plurirelational character of humans, and, hence, partly materialized by those fundamental moral norms that realize all the fundamental social functions, that is, all those forms of human relations that, being necessary, set the limits beyond which no relations compatible with human social life can materialize. At the beginning of this section of the paper, I insinuated my belief that in spite of what has just been said there is a realm of human social life not covered by any of the fundamental social functions we have studied so far. This realm, which we are now going to study, guarantees the specificity of morality.

One way of arriving at the kingdom of morality is conducting a sort of methodical doubt, since given any of the

fundamental moral norms we have already deduced, the question can always be asked, why is it that I ought to follow it, why is it that I ought to comply with it? Once all the questions have been asked, one common answer will appear as the only one acceptable; I ought to do so-and-so because I am a person and I recognize others as persons, and if I do not do so-and-so, a society of persons will be impossible. We have seen that this premise is an essential constituent of all moral reasoning. As a matter of fact, we can say that it constitutes the core of all moral consciousness. In contrast to the basic rules we have considered thus far, those reflecting this essential demand of morality require a respect or regard for persons in general or, what is the same, they require that persons be respected for their own sake. Prior to any particular actions or abstentions, these rules require an attitude that is to permeate all behavior involving persons.

Nothing, perhaps, exhibits better the profound wisdom of Christian ethics than the exigency to go beyond law by restraining not only action but also the spirit. Goodness lies more in the general mood of the spirit, than in any of the actions undertaken in the name of the law. Thus, the call to love God above all things, for the love of God does not require external signs. And thus, too, the urge to love men with the same kind of love offered to God. Real 'caritas,' for the Christians, immediately links those that experience it to God.

Similar conceptions are to be found in all the major ethical religions and in the most serious systems of moral philosophy. This is notably the case of Confucian ethics, as has recently been pointed out by G. H. Mahood, who claims that it is proper to think of "'hsiao' as exhibiting par excellence the spontaneous and 'natural' aspect of character, for example in the form of amiability and in broad terms humanity, and (also to think of) 'li' as in its general form emphasizing a 'rule' ethic, the norm in accordance with which human wants should be accommodated."⁶⁷ The 'Analects' abound in exhortations to keep these two virtues together. According to Confucius, in the same manner that a good disposition alone, which ignores or disregards tradition, cannot lead to goodness, so, regard for tradition, that is not complemented by a good disposition of the spirit can, in the long run, lead only to error and evil.⁶⁸

In his own secular manner, many a major philosopher from Hume, through Dilthey to Ross has recognized what is variously called 'benevolence,' 'sympathy,' 'love,' 'generosity,' 'regard for persons,' etc, as the central moral category. And to that extent, at least, the moral systems of these philosophers have hit the target. As did, many centuries before, Aristotle, who claims that the Supreme Good, which is the "end of political science," is "to produce a certain character in the citizens, namely to make them virtuous, and capable of performing noble actions."⁶⁹ A virtuous

man is one who seeks the mean, that is, one who seeks to do the appropriate actions, to display the appropriate amount of feeling in each occasion, and who does so not because he feels an external pressure to do so or because he expects to gain something in return, but because he desires what is noble or good ('kalos') for its own sake.⁷⁰ The sign or symptom that the good man, who, at the same time is a good citizen, naturally desires the good, lies in the happiness or enjoyment that virtuous behavior affords to him. Thus, finally, only the life of the good man can be perfectly enjoyable and harmonious, since only the good man can overcome the conflict between duty and inclination.

But, why is it, then, that even the most barbarian writers of our day, those that claim that human nature is for the most part beastly, feel forced to recognize a minimum of benevolence in the disposition of man towards his fellow specimen? Mostly, I suppose, because even in their narrowmindedness they see the impossibility of accounting for human social existence without postulating a minimum of 'social instinct.' Of course, to confuse benevolence with an instinct is, in itself, a major non-sense, as are, as we have seen, all those theories of human nature that fail to record the specificity of social existence. At the end, it is absolutely irrelevant for the GTHSP whether there is a 'natural instinct' of benevolence or not, although, en passant, I would like to remark that all attempts to explain both animal and human social

phenomena on the basis of social instincts seem to me to be rather tautologous. A little like explaining the movement of the heavenly bodies by imagining them propelled by ghosts or unknown forces. To say that men live in society because they possess an instinctive inclination to do so, adds nothing to our understanding of the forces camouflaged under the label of 'instincts,' In fact, recent observations⁷¹ seem to suggest that the notion of 'instinct' is useless even to explain the social behavior of monkeys.

So, philosophers and barbarians alike seem to agree on one thing, namely, that there seems to be a sentiment that could roughly be called 'benevolence' or 'good disposition,' and that this sentiment underlies human social existence. If this is so, it should be possible to deduce it, that is, it should be possible to show that it is a condition of possibility of social life.

Suppose that humans living in society lack benevolence or the capacity to love their fellow men. The bonds between them, if any, would be those determined by interest or 'inclination,' such as the interest to protect each other against aggression by common enemies, and sexual desire. Now, in none of these cases are there any a priori reasons why a given individual should relate to a certain other individual rather than to someone else, nor are there any reasons why the alliances, once established, should last beyond their immediate usefulness. Aristotle had these facts in mind when, in the

politics, he claimed that a 'polis' is something more than an association of convenience. He was mistaken, though in assuming that the sexual impulse added to self-interest is enough to generate the family bond, as can easily be inferred from our discussion concerning the nature of the family. Interest as such, then, cannot be the cause of our permanent relationships with other people, nor does it provide a clear criterion to discriminate between people, other than an accidental one. It could be argued that the feelings of friendship and attachment that can develop during periods of prolonged or intense contact and cooperation suffice to supplement whatever interest alone cannot provide. But it certainly is not difficult to find arguments to prove this assumption false. To begin with, let us consider alliances established for the sake of the immediate advantage of the parties involved. Once the purpose of the alliances has been fulfilled, it can well be the case that the immediate interests of the parties could begin to conflict with one another, given that, ex hypothesis, there is nothing to prevent the same situation from arising in relation to one another, that had previously led them to unite against a third party. If this were the case, the emotional ties that had had time to develop, would soon be dissolved to be replaced by their opposites.

But let us consider next associations for the sake of mutual benefit that point at a long range or mediate goal. Take survival, for example. Given that what we have in mind

is the survival of each individual, and given that environmental and other conditions are subject to permanent change, it is within the realm of possibility that at a certain point in time the survival of one of the individuals will depend on his breaking the bond with his occasional partner. That faced with these circumstances he would do so, we know a priori, since we are operating under the assumption that survival is, for both individuals, the supreme value. 'Friendship,' being a consequence, rather than a cause of the initial contract, is not likely to survive the disappearance of its cause. There are numerous examples of this sort of thing, especially in capitalist societies, where the 'friendship' between employer and employee, even one that might have developed over the years, rarely prevents the former from firing the latter when the real or imagined needs of the firm so require. Think also of the 'paternalistic' relationships between servants and masters, or, easier, of international relations, which are explicitly based on self-interest.

One could go further, of course, and argue that friendship or, at least, 'real' friendship has the power to change or reshape any relationship so that all other concerns end up being subordinated to it. That many persons are willing to die for their friends can hardly be denied. The problem here is that it is not self-evident that the friendships capable of leading to the sacrifice of one's life can originate in an alliance of convenience. In order to clarify this whole issue, we have to start by asking the question, what is required for

someone to prefer somebodyelse's life over his own life, as a matter of principle? Obviously, self-interest does not generate such a principle, save by ignorance or mistake. Whatever generates such a principle must be something that takes into account much more than just our physical integrity and our survival, for nothing that postulates that as the final goal of our behavior can, without being self-defeating, endorse any form of unqualified self-denial. That is, anyone willing to sacrifice his own life for the sake of someone else must not have in mind his survival as a physical entity. And at this point the riddle dissolves, for, clearly, it is only of persons that such an extreme sacrifice can be expected and demanded. That self-sacrifice and self-denial is demanded of persons under certain circumstances is undeniable. In fact, just such an implicit demand is part of the relations that persons have to some other persons (not to all persons, though) in all societies. War is, of course, a great exception, for during periods of war all persons are expected to be willing to give their lives for the sake of society as a whole.

In Western societies, for instance, a male is expected to sacrifice his life for the sake of his wife and children and the children, once they have reached a certain age, are expected to sacrifice their own interests for the sake of their parents'. Everywhere, the worst forms of cowardice are associated with the failure to do just that when the occasion comes. To use Aristotle's terms, it is, then, from those that have

come together not for the sake of life alone, but for the sake of the good life, of life as persons, that extreme sacrifices are demanded.

But here a new question arises. Granted that what has been said so far is true, it is still not clear what the procedure is by which persons discriminate between those deserving their self-sacrifice and those not deserving it. Or, more generally, between those with whom their interests can, in principle, never conflict, and those with which conflicts of interests can, in principle, develop. That a principle or criterion that permits this sort of discrimination is necessary, is undeniable, since without it, it would not only be impossible to distinguish between persons and non-persons, but between persons themselves in regard to the degree of responsibility and liability that is due to each in relation to everybody else. So, without such a criterion, it would be impossible to deliniate the social space, and also, for example, to distribute responsibilities regarding the education and training of children.

In fact, then, we are talking about two kinds of different processes. Both originate simultaneously and constitute the core or substance of what, so far, we have been calling the primordial act of rationality. One process determines our incorporation into a society of persons in general, by allowing us to distinguish between in- and out-siders. The other permits us to find our place in that society by setting up a system of liabilities and responsibilities as well as

rights toward certain definite persons and groups of persons. These two processes will be analyzed in detail in the next chapter. Here we are exclusively interested in determining the norms that make them possible and that guide their materialization. But before we try to formulate the laws, we should get clear as to their content and function in relation to the other fundamental norms.

It seems relatively evident that first and foremost they have to command an attitude, a willingness to do and to refrain from doing certain things in relation to persons whenever and where ever the occasion arises. These things are all those connected to the satisfaction of needs that are prerequisites of social life. To the hypothetical question, why should I submit to you?, these laws do not answer "because it is in your self-interest" or anything of that sort, but, simply, "because you are a person." For the bond they seek to generate between persons is absolutely necessary and can be so only if it is intimately connected to the very nature of personhood. So, a person does what he is supposed to do, not because he wants or expects to obtain some reward in return (not even in heaven), but solely because he wants to be what he is, because, so to say, he wants to persevere in his being.

I think it is quite appropriate to call the attitude or inclination we are discussing, in the form it takes in relation to the first task mentioned above, 'benevolence.' It being a general disposition towards persons to behave, in any

and all matters relating to them, according to the universal moral rules. In fact, all that is required of persons is that they should wish other persons well (bene-velle- eunoia-eumeneia), that they should exhibit some concern or love for their neighbors. Benevolence in this sense is a sign of 'filan-thropia.' It is in this context too that we need to understand the dyad good/bad. The substance of goodness are the norms that materialize the fundamental social functions; its form is the obligation to abide by them in all relations involving persons. Good and evil are, therefore, the most universal terms of any language and, certainly, the most necessary.

We have already seen that in regard to certain persons and kinds of persons greater exigencies can be placed upon our conduct than in regard to persons in general. Benevolence, then, does not extenuate the meaning of 'goodness'; goodness of character demands, in some cases, what could be called 'love.' Christian Ethics, in its orthodox version probably the most demanding of all systems of ethics, does not make this distinction, since above and beyond the most intimate of our earthly bonds, it places the bond with God. Universal and unrestricted love, this is the demand of Christian Ethics; a demand that, although it expresses the most honorable and ambitious of human ideals, exceeds by far the levels of effort and dignity required for existence in society. Not even when the socialist revolution has managed to create an

homogeneous social space covering all the corners of the earth, will the demands of Christianity have necessarily been met, because what they seek is not merely that all humans be recognized as persons in their own right, but as brothers. And that requires the moral capacity of the holiest of saints.

But even those of us who are no saints have to exhibit a certain, not negligible, amount of love and willingness to sacrifice our personal interests and inclinations for the sake of others. Three fundamental social functions demand this most forcefully and immediately: production, reproduction and training, for the greatest amount of self-sacrifice is requested of those adults and children whose wellbeing is the responsibility of each other. What we call 'friendship,' is the result of the free development of a love relationship between two or more persons. I use the word 'free' in this context to indicate that the relationship between two friends is not pre-sanctioned by society, in the sense that necessary norms are in no manner involved in the pairing of two particular friends. That persons are capable of developing close friendships, I consider the most noble feature of humanity and whatever can be done to improve its lot will most likely depend on it.

So, 'benevolence' makes it possible for us to behave like persons, both by marking the difference between persons and non-persons, and by defining good and bad behavior in relation to persons in general. Love, on the other hand, determines the realm of our concrete and most immediate responsibilities; much more demanding than benevolence, it asks not

only that we refrain from doing evil, but that we actively promote, sometimes at the cost of our own well-being, the well-being of those to whom it binds us. No one, therefore, can be said to love his neighbor, if he is willing to let him starve to death under certain circumstances.

So far, two are the most general norms of human morality that we have been able to determine:

21. Persons ought to be benevolent, they ought to do good or follow all the norms constitutive of personhood, and they ought to avoid evil, i.e., they ought not violate the norms constitutive of personhood.
22. Persons ought to love their neighbors, they should care for those persons and/or children whose well-being and subsistence has been entrusted to them by the norms of society.

So far we have said not a word regarding 'justice,' the one virtue that has most extensively been discussed by moralists and politicians in the West. This last qualification is, oddly enough, necessary, for nowhere in the writings of Confucius and Mencius, for example, have I been able to encounter a reference to a single virtue that could only be translated by the word 'justice.' A gentleman, in Confucius' sense, could, I suppose, be called just, but, if so, only in virtue of his possessing all the qualities which characterize him as a gentleman. For Aristotle, on the other side, fairness or justice entails a particular way of relating to people that can be distinguished from other virtuous sorts of behavior, although, in a general sense, 'justice,' Aristotle notes, means the same as 'virtue.'⁷² In its particular sense justice has to

do with gain and loss and can be either distributive or corrective. Without going into further detail, our question must be, simply, whether the type of virtue that Aristotle calls 'justice' is a necessary feature of persons insofar as they partake of the fundamental social function of morality, or whether this virtue is somehow or other a part of one, some or all of those we have already discussed.

'Benevolence' and 'love' enable and dispose persons to treat other persons as such, that is, according to universal norms. In a way, this creates a willingness to give to each what is his due. We have already seen that a limited version of this principle is necessary for the materialization of the fundamental social function of production. But it is also clear that such a principle is the basis for the division of labor and the exchange of services that make social life possible. Aristotle remarks, quite appropriately, that 'political justice' can be said to exist only between "free and (actually or proportionally) equal persons, living a common life for the purpose of satisfying their needs."⁷³ Obviously, non-persons have, in principle, no right to demand to be treated justly in this sense. In general, though, this type of justice is covered by the principles of benevolence and love, for they establish the equality of persons, assigning equal value to their basic demands and their activities and products.

There is a sense, nevertheless, in which benevolence and love need to be complemented. For 'personhood,' no matter

what the empirical criteria are according to which it is bestowed in each case, is not a permanent quality, but a contingent one, insofar as it is dependent upon the activity of the subject. That is, a lack of activity or an activity which does not correspond to the principles of benevolence and love can, in fact, result in the deprivation of the quality of personhood. All this follows, then, from the fact that human societies are not static, but dynamic entities, and that, therefore, their ontological consistency depends upon and is exhausted by the activity of their elements.

And these elements, we have seen, are multirelational creatures, whose relationships are not predetermined, but have to be regulated through a mechanism of norms. This mechanism, which is artificial, on the other hand, cannot be more perfect or less flexible than its creators, who can, by the very activity that creates and maintains it, hamper its functioning and even destroy it altogether. Two things follow from this. The first is that a principle of elimination is required to ensure that the elements that have become cancerous and threaten the survival of the mechanism as a whole will be discarded. The second is that enough flexibility has to be incorporated into such principle, so that the ratio of elimination of persons never exceeds the ratio of incorporation of persons into the society. This second principle we can call the 'principle of lenity'; the first we can call the 'principle of punishment or elimination.' The principle of lenity qualifies the principle of punishment, a feat that can be

accomplished in two ways: a) by establishing alternatives to the total de-personification of persons who engage in deviant behavior; b) by establishing a principle of restitution or compensation. A third imaginable possibility, that of ignoring the sins of a person, has to be discarded on the grounds that such a practice would be self-defeating for a system of law, since ignoring violations of basic rules by persons, that is, violations involving, ex hypothesis, damage to other persons and the negation of the personhood of the violator, would be tantamount to negating the necessary character of basic moral rules.

In general, the principle of lenity gives a person a chance to regain his personhood by doing something that, in the eyes of his fellow persons, reconstructs the state of things that had been broken. The principles of lenity and punishment constitute what we could call the general principle of 'justice.' In the way it is presented here it corresponds quite closely to what Aristotle calls 'rectificatory' or 'corrective' justice (to diorthootikon).⁷⁴

The third principle comprising the fundamental social function of morality is, then, the principle of justice, that could be formulated as follows:

23. Persons who violate the universal norms ought to be punished by their peers.
24. Persons ought to be generous, they should exercise lenity in relation to other persons who violate the universal laws and who, accidentally, cannot fully comply with them.

With this we have basically completed the deduction of the fundamental moral norms. Much more could be said regarding each one of them, but our task here was, merely, exhibiting them. There is still, though, something that has to be done in this chapter for the sake of coherence and clarity, namely, we have to state explicitly what we have been assuming as known throughout our discussion: the relationship between norms, virtues and values.

3. Norms and Virtues

Aristotle complains somewhere about the lack of words in the Greek language to designate some of the virtues that he considers essential. At this point, however, we can say that Aristotle's complaint is only partly justified, for ex hypothesis, no language can lack the words or, at any rate, the expressions to refer to any virtues or vices which are in fact essential. Why this is so, we are going to see in what follows.

In a recent book entitled "The Virtues,"⁷⁵ Peter Geach, the author, deals primarily with the so-called theological and cardinal virtues, trying to show, in many an ingenious way, that these virtues are absolutely indispensable for anybody interested in preserving human social life as such, and in endowing it with a minimum degree of dignity. I am not going to discuss Geach's book in detail, although that would certainly be a task worth the paper and the time, nor am I going to deal specifically with any of the classical treatments

of virtues and vices from Aristotle and Theophrastus to Aquinas and Hume, for although such a critical exercise is bound to be illuminating in itself, if undertaken now, it would take us away from our topic, which is the exhibition of the table of virtues, and the clarification of the relationship between them and the fundamental moral norms.

Let us start by asking what virtues and values are, and whether there is a difference between them. It is not so difficult to detect a first difference between values and virtues, a difference that, although linguistical, might well reflect something deeper. Virtues, as Aristotle points out, are usually predicated of persons and their dispositions and actions, while values are usually thought of as goals to be met or ideals towards which one ought to strive. A person can be said to have or possess certain values as well as certain virtues, but the senses of the words 'have' and 'possess' are different in each case. To have certain values is to hold them dear, to consider that, in principle, one's actions ought to correspond to them. But I may hold in great esteem the value of truthfulness and still be a liar. This is not possible if I possess the virtue of truthfulness, for the only sign of possession that counts in this case is the very fact that I do not lie.

Also, we do not say of a person that he is 'valuable,' unless we are speaking in utilitarian terms, that is, unless we have in mind his usefulness in regard to something or other

that is to be accomplished. But, to say of someone that he is 'virtuous' is a perfectly common way of talking.

But let us leave these simple distinctions where they are for a little while and ask directly what the connection is between norms, values and virtues. Consider one of the norms that we have already deduced, for instance "do not be indifferent toward the suffering of others." Obviously, this statement has the form of a command, of an order or imperative. The immediate subjects of commands are, ex hypothesis, persons. What is commanded of them is that they adopt a certain attitude, that before we called 'compassion.' Now, it seems to me that such an attitude or disposition can well be called a virtue, its contrary being a 'vice,' in this case the vice of indifference. Given that all basic norms can be materialized only through the behavior of persons, it is evident that a command, demanding that persons exhibit certain virtues in their behavior, must correspond to each of them. That is to say, there are at least as many basic virtues as there are basic norms, and to each of these virtues corresponds a vice. A person's character, insofar as he is in fact a person, is virtuous to an extent and by definition there cannot be a person that is utterly vicious or corrupt, for corruption destroys the quality of personhood.

Now it should be obvious why Aristotle's complaint, to which reference was made above, is, if taken too seriously, absurd. For a language, just because it is a language and is therefore meant as a means of communication between persons,

must have a way of naming persons, and no language, which lacks a means to characterize them, can name persons.

But what about 'values,' where, if at all, do they fit in this scheme? Consider again any of the norms we have deduced. Does it make any sense to claim in relation to them that they 'command' a person to have a value? If we take each norm individually I think such talk does not make sense. Realization of this, perhaps, is what has prompted some philosophers to argue in favor of Axiological Realism. I have in mind philosophers like Max Scheler, Meinong and Nicolai Hartmann. It just seems that the behavior of persons is not directly connected to values so as to make their ontological consistency dependent on it. Values appear to have a way of subsisting without persons, independently of persons, after all, they are not directly predicated of them.

To claim that there is a value for each virtue commanded by a norm, is a typical and excellent example of needless duplication of entities. Nothing is added in any way whatsoever to the virtue of 'compassion' if we put it next to the 'value' of compassion. But 'compassion,' the virtue that is, is really understood only when it is seen in the framework of human social behavior, and concretely, when it is perceived as a demand stemming from a condition of possibility of social life. Values are, it seems to me, the concrete expressions of these conditions of possibility in society. That is, there must be as many basic values in any society as there are fundamental social functions. The basic norms, then,

rather than commanding a value, stem or derive from them. Hence, the table of fundamental values is identical to the table of fundamental social norms.

It used to be the case that great attention was paid by philosophers to moral feelings or emotions, sometimes also called 'passions.' But, both if we observe the common use of language or the works of philosophers in which they appear, we will find that these words are used, almost without exception, as synonymous of the word 'virtue.' When A. Smith writes of "moral passions," what he means are "moral virtues," and this is also basically true throughout Hume's writings. And when we praise somebody for being 'honest' or 'generous,' we praise him both for having a virtue and/or a certain type of feeling. Nonetheless, there are a couple of feelings that, not corresponding to any virtue in particular, have been perceived by many philosophers since Antiquity as the basis of all moral behavior. I have in mind the feelings of pain and satisfaction or pleasure. A substantial number of people attempting to explain the causes of human behavior have seen in the interplay between pain and pleasure the answer to all their questions. And ancient and modern Epicurians and Utilitarians alike have seen in their interplay the source of human morality. Let us then pause briefly and examine the relationship between pain, pleasure and morality.

That human beings are capable of experiencing pain and pleasure is undeniable. What is not so clear, though, is whether the assumption, uncritically accepted by many, that there are certain specific feelings which could be called

'pain' and 'pleasure,' is in fact acceptable. When I cut my finger I experience pain. But if I fast for a week, shall I be able to analyze the kind of suffering I will experience into the two components 'pain' and 'hunger'? Certainly, the rather soft suffering that normally nourished persons seek to break by means of eating bread is not to be called 'pain.' But when the fasting is stretched long enough, and even if we assume that no organs have yet been affected to the point of becoming independent causes of 'pain,' the sensations of hunger and pain tend to be intensified. And the same seems to apply to other kinds of suffering. In general, then, it would appear to be the case that the word 'pain' designates more a degree of suffering, than a specific kind of suffering. But, what does it mean to say that humans can suffer? Nothing more, I think, than what is conveyed by the affirmation that humans are vulnerable. Suffering is nothing but a sign or, if preferred, a symptom of the vulnerability of humans. Suffering is the result of the malfunctioning of the human body or of the frustration of some of its functions.

Pleasure or satisfaction, on the other hand, is just the opposite, i.e., a sign that there is nothing wrong with the human organism and that its relationships with the environment, natural and social, are smooth. Having shown this with great clarity is, I think, one of the greatest merits of W. Dilthey's unfortunately not well-known but brilliant essay on the nature of morality.⁷⁶ What, in the final analysis, allows the human organism to survive, Dilthey claims, is that its 'instincts'

(Triebe) enable it to distinguish the dangerous from the beneficial elements of nature, and that whenever a balance or agreement is established between the environment and the organism, the feelings attached to each of the instincts react by producing a sensation of satisfaction (Lustgefuehl). If this were not the case, Dilthey argues, or, worse yet, if the opposite were the case, that is, if the proper balance that we spoke about were accompanied by a feeling of pain, the human organism would be unable to survive.⁷⁷

But, if this is true, have we not made a serious mistake by not postulating the capacity to feel pain and pleasure as one of the characteristics of human nature that operate as prerequisites for human social life, that is, that are the ultimate basis for the generation of fundamental social norms? I do not think so, for contrary to what has been claimed many times in the past, and to what Dilthey himself believes,⁷⁸ not a single moral norm can be directly derived from this capacity. The relationship of this capacity to morality is not a productive but a limiting one. Pain and pleasure do not posit any rules, they simply operate as limiting factors, marking the degree of acceptability of both basic and non-basic moral rules. Unacceptable moral rules, i.e., those that ignore the vulnerability of humans and impose upon them a great deal of suffering, will provoke the signal that we call 'pain' or 'suffering.' The prohibition to cause pain or suffering to persons can, therefore, be said to be co-extensive with all the basic moral rules, and insofar that

this is true, no specific moral law is necessary introducing a rule beyond that of refraining from causing harm to persons. Traditional discussions concerning the notion of 'sympathy' are deficient for the most part precisely because they have ignored this fact. If I refrain from doing something is not because I realize that others may experience the same 'feelings' that I am capable of experiencing but because I recognize these others as persons. Morality, let us recall once more, begins with an act of reason, not with an emotion. The screams of pain of slaves rarely are enough to stop their masters from abusing them.

There is another important consequence to be derived from the remark that the prohibition to cause pain is coextensive with all the basic moral rules. Namely, that it is therein that we have to look for the explanation of the fact that moral feelings and virtues are perceived as being identical. The feeling of satisfaction or pleasure can take as many forms as there are virtues. This is what is behind the eudemonist claim that virtue and happiness are one, for no one can be a person and survive as such without having his or her needs satisfied and, therefore, without being happy in the most general and proper sense of the word. On the other hand, there can be no happiness independently of an existence as a person. The capacity to experience emotions is utterly amorphous, unless it is regulated and provided with an aim by morality.

But let us now try to close this already long chapter by presenting the table of the fundamental or basic virtues. The reader will probably find that in some cases I have strained the English language a little bit in my attempt to find names for certain virtues; but, in this respect, it is important to keep in mind the general tendency visible in many a modern language to substitute nouns by complex expressions. But, be that as it may, in the end it is really not important what name or names we decide to choose to refer to the different virtues. In most cases, any of the expressions I have selected can safely be replaced by one or several synonyms.

Furthermore, it is important to notice that some basic norms require for their actualization that persons possess more than one virtue. Such is the case, for example, of the rule of justice, as can easily be inferred from our discussion of it. Finally, it should be remembered that each of the virtues, which are, as stated above, predicable of persons, correspond to characteristics impressed upon social life by universal moral norms. In some cases, the names of both the characteristic and the virtue corresponding to it are the same, in other cases this is not so, but in all cases it is important not to confuse one with the other.

In all we have deduced 24 universal moral norms. Let us, then, consider each one of them.

Norm 1 demands that persons avoid appropriating by force or by other means not sanctioned by society, those things

allocated to other persons. In fact then, they promote what we could call the virtue of 'honesty' and condemn the vice of 'dishonesty.'

Norm 2, on the other hand, promotes two sets of rather analogous virtues, for it not only requires that we be 'moderate' or 'temperate' in our demands and, thus, avoid 'greediness,' but it also recommends that we be willing to share and exchange with others what we possess, that is, it recommends that we practice 'liberality,' 'generosity' or 'altruism,' while avoiding the vice of 'egoism.'

Norm 3, which condemns 'laziness,' encourages the virtue of 'industriousness,' while Norm 4, urging us to cooperate with others and join them in the performance of common tasks, proposes the virtue of 'sociality,' and denounces the vice of 'seclusion.'

Norm 5, linked to the fundamental social function of defense, preaches 'courage' and opposes 'cowardice,' and Norm 6, closely related to 5, promotes what could be called 'alertness' or 'fitness.' A good name for the corresponding vice seems to be 'unreadiness.'

Norm 7 is another one of those which point to two sets of qualities: the first can be called 'obedience' or 'discipline,' the second 'faithfulness' or 'devotion.' The vice corresponding to the first virtue is 'disobedience,' that corresponding to the second, 'treacherousness.'

Norm 8 encourages us to show respect for the safety of others and ourselves, which is what is usually referred

to as 'prudence.' The corresponding vice being 'imprudence.'

Norm 9 demands that we feel 'compassion' and condemns 'apathy' or 'indifference.'

Norm 10, also related to the social function of health-preservation as the two preceding ones, promotes 'cleanliness' and discourages 'uncleanliness,' while Norm 11 demands 'reverence' and condemns 'irreverence.'

Norms 12 and 13 are more complex in their demands, sharing some in common, although not all. The characteristic imposed upon social life by Norm 12 could be called 'timeliness' or 'seasonableness,' that is, the quality of allocating time in a form compatible with the materialization of all basic social functions. The basic virtue corresponding to this quality could be called 'propriety' and the vice 'impropriety.' In fact, though, this virtue is manifested also as respect for the proper allocation of place, and hence is shared by Norms 12 and 13. This last one, on the other hand, requires also that territory be appropriated and incorporated as an essential component of the social fabric. The virtue related to this demand is what could be called 'patriotism,' the vice being 'aloofness.'

Norm 14, which establishes the relationship between the geographical and the social spheres, encourages the virtue of 'congregativeness,' and condemns the vice of 'dispersiveness.'

Norm 15, the first related to the social function of instruction, demands the virtue of 'instruction' and discourages 'secretiveness.' And Norm 16 promotes the virtues of 'truthfulness' or 'veracity' and condemns the vices of 'falseness' or 'deceptiveness.'

Norm 17, which demands respect for the cultural patrimony, imposes the virtue of 'enlightenment,' and rejects the vice of 'ignorance or 'incivility.'

Norm 18, which requests that we care for children, promotes the virtue of 'responsibility' and condemns the vice of 'irresponsibility.'

Norm 19 seeks to induce 'respectfulness' and to combat 'irrespectfulness.'

Norm 20, usually the most difficult to follow and, therefore, not surprisingly seen by many as the most essential moral norm, recommends 'uprightness,' 'straightness' or 'rectitude,' and condemns 'promiscuity.'

Norm 21, the first corresponding to the function of morality, promotes 'benevolence' and censures 'malevolence,' while Norm 22 encourages 'love' and damns 'hostility.'

Norms 23 and 24, finally, propose three sets of virtues and vices. The two first ones do not require much clarification and correspond to the two facets that have already been discussed. These are 'justice' and 'injustice' and 'severity' and 'lenity.' But, in demanding that law-violators be punished, Norm 23 asserts, implicitly, the principle that laws should be obeyed. In the coming chapter we will see the very important

function of this principle, for now let us simply state the names of the virtue and vice corresponding to it: 'lawfulness' and 'unlawfulness.'

Having presented the table of virtues and vices, it is time to proceed to a brief discussion of the mechanisms involved in the generation of real normative codes.

CHAPTER II NOTES

¹L. Fuller, The Morality of Law (New Haven, Conn.: Yale University Press, 1964) pp. 143-145.

²E. Durkheim, The Division of Labor in Society, pp. 68-69.

³R. Pound, Law and Morals (Chapel Hill, N.C.: The University of North Carolina Press, 1926) pp. 70-90.

⁴"... Philosophy of law beings by attempting to find the ideal side, the enduring idea, of social control. The philosophy of social control is taken up by Roman lawyers in a stage of legal growth, after a period of strict law, and becomes philosophical jurisprudence--an attempt to find the ideal side, the enduring idea of law and of each legal rule and institution and doctrine, and thus to find an ideal body of law by which to try, and from which to eke out, the legal materials handed down from the old Roman city-state. This philosophical jurisprudence is revived and carried forward through a rationalistic philosophy of law in the corresponding stage of development in the modern world . . . It becomes the prevailing method of the science of law in stages of growth in which a large infusion of morals or of ethical custom into law is going forward. Hence it is invoked at the outset to give a rational account of that infusion and does so by assuming the ultimate identity of legal rules with moral rules. (Ibid., p. 86).

⁵MEGA, I, 1 pp. 592 ff.

⁶MEGA, I, 1 p. 599.

⁷H. Kelsen, "Law and Morality" in Essays in Legal and Moral Philosophy (Dordrecht: D. Reidel, 1973) p. 91.

⁸Ibid., p. 90.

⁹Cf. especially Fundamenta juris naturae et gentium (Halle, 1705).

¹⁰G. del Vecchio, Philosophy of Law (Washington: The Catholic University of America Press, 1953).

¹¹Ibid., p. 280-281.

¹²Cf. Die sozialetische Bedeutung von Recht, Unrecht und Strafe (Berlin: Verlag von O. Haering, 1918).

¹³Ibid., p. 45.

¹⁴Ibid., p. 45.

¹⁵Hart, The Concept of Law, p. 188-189.

¹⁶Cf. P. Devlin, The Enforcement of Morals (Oxford: Oxford University Press, 1965) and H.L.A. Hart, Law, Liberty and Morality (Stanford, Cal.: Stanford U. Press, 1963).

¹⁷Cf. Hart, The Concept of Law.

"The further ways in which law mirrors morality are myriad, and still insufficiently studied: statutes may be a mere legal shell and demand by their express terms to be filled out with the aid of moral principles; the range of enforceable contracts may be limited by reference to conceptions of morality and fairness; liability for both civil and criminal wrongs may be adjusted to prevailing views of moral responsibility. No "positivist" could deny that these are facts, or that the stability of legal systems depends in part upon such types of correspondence with morals. If this is what is meant by necessary connection between law and morals, its existence should be conceded." (p. 199).

¹⁸L. Fuller, The Morality of Law, p. 6.

¹⁹Ibid., p. 5.

²⁰" . . . , there are in this enterprise (of making law), if you will, eight distinct routes to disaster. The first and most obvious lies in a failure to achieve rules at all, so that every issue must be decided on an ad hoc basis. The other routes are: 2) a failure to publicize, or at least to make available to the affected party the rules he is expected to observe; 3) the abuse of retroactive legislation, which not only cannot itself guide action, but undercuts the integrity of rules prospective in effect, since it puts them under the threat of retrospective change; 4) a failure to make law understandable; 5) the enactment of contradictory rules or 6)

rules that require conduct beyond the powers of the affected party; 7) introducing such frequent changes in the rules that the subject cannot orient his action by them; and, finally, 8) a failure of congruence between the rules as announced and their actual administration." (Ibid., pp. 38-39).

²¹Ibid., p. 106.

²²Cf. Hart, The Concept of Law, p. 202.

²³Cf. Hume, A Treatise of Human Nature, L. A. Selby (ed.) (Oxford: Clarendon Press, 1928).

²⁴Ibid., p. 458.

²⁵Ibid., p. 459.

²⁶Ibid., pp. 465-466.

²⁷Ibid., pp. 468-469.

²⁸Ibid., p. 469.

²⁹Ibid., p. 472.

³⁰Cf. "Does Moral Philosophy Rest on a Mistake?", Mind Vol. XXI (1912) pp. 21-37.

³¹Ibid., p. 33.

³²Cf. I. Kant, Grundlegung zur Metaphysik der Sitten in I. Kants Werke, E. Cassirer (ed.) (Berlin, 1913) pp. 270-273.

³³(New York: Dover Publications, 1946?) especially pp. 102 ff. A similar, not less vulgar version of the first modern reformulation can be found in Ch. Stevenson's Values and Facts (New Haven: Yale University Press, 1963).

³⁴Stevenson, Values and Facts, p. 10 ff.

³⁵"Fallacies in Moral Philosophy," Mind, Vol. LVIII.

³⁶H. Poincare, "La morale et la science" in Dernières Pensées (Paris: Ernest Flammarion Editeur, 1913) pp. 223-247.

³⁷"Nature and Convention" in The Open Society and Its Enemies, Part I, Chapter 5 (Princeton, N.J.: Princeton University Press, 1950).

³⁸Ibid., p. 65.

³⁹Ibid., p. 68.

⁴⁰"How to Derive 'ought' from 'is'", in The Is-Ought Question, W. D. Hudson (ed.) (London: MacMillan, 1969) pp. 120-143.

⁴¹Ibid, p. 131.

⁴²"Prolegomena zur einer Kategorienlehre des richtigen Lebens" in Philosophisches Jahrbuch, 83 (1976) pp. 71-97.

⁴³"Morality and the Human Situation," Ratio, Vol. XVII, N. 1 (June, 1975) pp. 112-117.

⁴⁴For bibliographical information on Warnock's book see note (3). Downie's book is entitled Roles and Values. An Introduction to Social Ethics (London: Methuen and Co., 1971).

⁴⁵Loudfoot, "Morality and the Human Situation," p. 115.

⁴⁶Warnock, The Object of Morality, p. 158.

⁴⁷Ibid., p. 166.

⁴⁸Downie's truths about human nature, which are relevant to morality are the following: a) human lack self-sufficiency, that is, "they are vulnerable in an environment that is in many ways hostile, and thus require protection of various kinds." b) humans possess limited benevolence; c) humans are equal in power; c) humans are limited in skills and understanding. b) inclines them to want to associate, c) leads to compromise and helps generate the notion of 'justice', c) is the cause of the division of labor. Cf. pp: 30 ff.

⁴⁹Ibid., p. 26.

⁵⁰Kohlberg, L., "From is to ought: How to Commit the Naturalistic Fallacy and Get Away with It in the Study of Moral Development" in Cognitive Development and Epistemology. ed. Theodore Mischel (New York, Academic Press, 1971). pp. 233 ff.

⁵¹Downie, Roles and Values, p. 15.

⁵²Loudfoot, "Morality and the Human Situation," p. 116.

⁵³"'Ought' Implies 'Can': A Bridge from Fact to Norm," Part I, Ratio, Vol. XIV, N. 2 (Dec., 1972) pp. 116-130; Part II ("From Human Needs to Human Rights") Ratio, Vol. XVII, N. 2 (Dec., 1975) pp. 147-175.

⁵⁴Ibid., Part I, p. 117; Part II, p. 147.

⁵⁵Ibid., Part I, p. 121.

⁵⁶Ibid., Part I, p. 123.

⁵⁷Ibid., Part II, pp. 149-153.

⁵⁸R. M. Hare, "Practical Inferences" in Hare, Practical Inferences (London: MacMillan, 1971) pp. 59-73.

⁵⁹Cf. A. Ross, "Imperatives and Logic," Philosophy of Science, Vol. XI, N. 1 (Jan., 1944) pp. 30-46 and A. Kenny, "Practical Inference," Analysis, Vol. 26, N. 3 (Jan., 1966) pp. 65-75.

⁶⁰Hare. In connection with this discussion cf. also the article "Imperative Sentences" in R. M. Hare, Practical Inferences, pp. 1-24. Hare deals extensively with this same issue in his The Language of Morals (Oxford: Clarendon Press, 1952). p. 73.

⁶¹Cf. The Varieties of Goodness (London: Routledge and Kegan Paul, 1963) pp. 155-177.

⁶²Ibid., pp. 171, 176-177.

⁶³Ibid., p. 172.

⁶⁴Cf. N. Chagnon, Yanomamö. The Fierce People (New York: Holt, Rinehart and Winston, 1968).

⁶⁵Cf. Gösta Langenfelt, The Historic Origin of the Eight-Hours Day, Studies in English Traditionalism (Stockholm: Almqvist and Wiksell, 1954).

⁶⁶Cf. Ivan Illich, Deschooling Society (New York: Harper and Row, 1971).

⁶⁷"Human Nature and the Virtues in Confucius and Aristotle", Journal of Chinese Philosophy 1 (1974) pp. 295-312.

⁶⁸Cf. Analects, Arthur Waley (ed.), (London: George Allen and Unwin, 1945) especially Book III, 26, p. 101; Book XIX, 14, p. 227; Book VIII, p. 132, 2.

⁶⁹Nicomachean Ethics, I, ix, 8.

⁷⁰Ibid., III, vii, 3 (1115b, 15).

⁷¹For a discussion of some of the results of these observations cf. Joan M. Cook, In Defense of Homo Sapiens (New York, Dell Publishing, 1975).

⁷²Nicomachean Ethics, V, i, 14-15 (1129b, 15).

⁷³Ibid., Vvi, 4 (1134a, 25).

⁷⁴Ibid., V, ii, 2 (1131a) and V, iv (1131b, 25).

⁷⁵Peter Geach, The Virtues, (Cambridge: Cambridge University Press, 1977).

⁷⁶W. Dilthey, System der Ethik, in Gesammelte Werke, Band X, (Stuttgard; B. G. Teubner Verlagsgesellschaft, 1958) cf. in particular Chapter 2 (pp. 48-85). Although the criticism of Utilitarianism in the first chapter is also quite illuminating in this respect.

⁷⁷. . . Trieb und Gefuehl lehren Nahrung zu suchen, neutzliche von schaedlichen Nahrung zu unterscheiden, treiben zur Fortpflanzung and, unterstuetzen die Zuchtwahl, lehen das tierische Geschoepf sich zu schuetzen, zu verstecken.
Dies geschieht vermittelt einer regelmaessigen Verbidung eines Verhaeltnisses der Neutzlichekeit zqischen Lebewesen und Milieu mit einem Lustgefuehl, des Lustgefuehls mit einer Triebregugng. Bestaende umgekehrt zwischen einem solchem Verhaeltnis und einem Unlustgefuehl eine regelmaessige Verbindung, so koennten wir keinen Tag leben." Dilthey, System der Ethic, p. 49.

⁷⁸Cf. ibid., pp. 64 ff.

CHAPTER III

THE STRUCTURE OF REAL MORAL CODES

1. Statement of the Questions:

The weak and superficial arguments of the defenders of Ethical Relativism receive their appearance of plausibility from the observable diversity of mores and customs in existing societies. In spite of the rather strong tendency towards cultural uniformity still prevalent in our age, any half-witted observer can detect a seemingly unending diversity in the beliefs and the behavior of human beings. Some anthropologists have recently seen in this the strongest indication of the unusual creative powers of the human species, a power that, as W. von Humboldt remarked some time ago, enables it to generate an infinite diversity out of a finite set of elements. No serious theory of morals can ignore this fact, and our thesis would be of little value, if, having accounted for the unity of morals, it were to prove incapable of accounting for its phenomenal plurality.

Two questions have to be asked in this respect, a how-question, and a why-question: how is it possible that morality, being basically universal, can come to adopt different and often contradictory appearances?; why is it that this is the case? The first question seems to have two dimensions, one is, if you please, technical. It seeks to uncover the

characteristic qualities of universal moral norms that permit them to coexist with contingent norms. The second dimension, on the other hand, appears initially as the truly philosophical one, and is not so easy to formulate. In fact, it seems to be rather contradictory for, in a sense, what we seem to be asking is how is it that entities reputed to be universal do not, in reality, materialize as such. We detect here something of the old argument against realism. To escape it, we could simply deny that real moral norms are moral, or we could postulate some obscure doctrine of participation. But all this is not only absurd in itself, but, if postulated here, it would directly contradict all that has been said so far, since it is our belief that no other moral norms exist in any sense whatsoever other than those instantiated by the actual behavior of persons. The universal moral norms have no existence in themselves, but being conditions of possibility of social behavior, it is through such behavior that they attain whatever degree of reality they possess.

The solution of this aporia requires that we recall carefully the thesis defended in the first two parts of the essay. That thesis affirms that universal norms are always instantiated in all their universality, which is the only position compatible with their definition as conditions of possibility. What is subject to change during the process of materialization is not the nature of the universal norms, but their range of applicability or extension. That is to

say, that once they have been instantiated, these norms apply to all persons without exception, although as we have repeatedly seen, they might not apply to all human beings, in the most general sense of the term. Once this has been seen with clarity, all the problems that seemed to be assailing us dissolve. And, at the end, our real philosophical question turns out to be identical with our technical question: how is it that the notion of 'person' is limited in real moral codes?

The answer to the why question is probably going to occupy the most substantial portion of this chapter, for it requires that we revise the most important factors that have traditionally been thought as 'determinants of moral ideas,' as M. Ossowska would have put it. In doing so, we will be attempting to accomplish three main goals: 1. understand to what extent morality is ideological, 2. establish which, if any, extramoral factors do in fact determine moral ideas and how, and, 3. discover whether this determination, to the extent that it occurs, affects all the components of personhood as a whole or only some, or whether some determinant factors affect some components but not all.

2. The Relation between Fundamental, Contingently Fundamental and Nonfundamental Moral Norms

The three expressions used in the title of this part of the paper designate the three sorts of norms that we have so far identified. For the sake of order, let us simply

remember that what we call contingently fundamental are those norms that, given a certain type of social reality, happen to be essential for its preservation. Their ontological status resembles somewhat the ontological status that, according to Wittgenstein, corresponds to the set of simple truths that G. E. Moore presented as examples of certain knowledge. If it appears certain to a king that the world began to exist the day when he was born, it is because, without this certainty, the legitimacy of his kingdom would be in doubt.

But it is perhaps necessary to be more specific than that. Think of the capitalist system. For it to subsist as such, it is indispensable that certain kinds of rules be enforced, particularly those demanding respect for "private property." But this means that for anyone perceiving social reality from the perspective of a capitalist system, and not interested in promoting any drastic social changes, such rules will naturally appear to be almost as essential as those we have called fundamental moral norms, since, after all, they are in fact conditions of possibility of a society organized under capitalist principles. These are, so to say, conditions of possibility of a second order. In our previous discussions we have already established that these kinds of norms can never take absolute precedence over the fundamental social norms in the consciousness of people. All this means is that, if pressed hard enough and under extreme circumstances, most people will perceive the difference in nature between both sorts of norms.

But let us consider this with more care. Our immediate problem is to attempt to comprehend the effect that contingently fundamental norms have on universal norms. Strictly speaking, this effect can only be a limiting or restrictive one. By augmenting the number of conditions for the existence as a person, the universal norms of the second order cannot but impose restrictions on the number of people that qualify to have bestowed upon them the quality of personhood. Or, to put it differently: If adherence to the universal moral norms were the only condition to attain 'personhood,' then there could not be any a priori reason to deny this quality to any single one of the members of the human species.* In fact the universal norms of the second order introduce principles of classification and exclusion which are alien to human social existence in its most universal expression. To illustrate this, let us think of any past society where personhood was conceived as a privilege contingent upon such criteria as place of birth, ancestry, ethnic group, class membership, etc. All these criteria are nothing else but different varieties of universal norms of the second order.

Once these additional rules have been incorporated into the moral consciousness, they color it totally, so that the

* It is understood that we are excluding those members of the species that are somehow or other incapacitated, as well as those who have renounced or lost their personhood. The first ones because they are by definition incapable of adhering to the universal moral norms, the second ones because their exclusion has obviously nothing to do with a priori reasons but rather with just the opposite.

range of application of the universal moral norms never exceeds that of the rules of the second order. This does not imply that there has to be an elimination or deletion of any of the universal rules or of the corresponding virtues, which, ex hypothesis, is impossible. What occurs is that strict conditions are imposed on the practice of virtues. Thus, disregarding the safety of a non-person, someone, let us say, that belongs to the wrong class, will not be seen as a vicious conduct. Or, if there are certain rules that define property in terms broader than the actual possession of an object, the mere use of that object by a person other than the proprietor will be seen as an instance of dishonest behavior.

This last example is particularly interesting, because it draws our attention toward an additional consequence of the limiting effect of norms of the second order. For the loss of personhood in any society where such norms exist will depend also, and, probably, with greater frequency, on their violation than on the violation of universal moral norms. A brief glance at any of the prisons of this country will provide more than enough evidence to that effect.

There is another, quite remarkable consequence of the introduction into a moral code of norms of the second order. Our discussion of the origin of basic virtues has proven that they correspond to the universal social functions. And we have just seen that their validity is not lifted by the limitation of their range of applicability. That is, a society

based on more norms than solely the universal moral norms is not utterly vicious, and, as a matter of fact, it could be said to be precisely the opposite, were we to utilize purely quantitative criteria to measure its degree of virtuousness, since the introduction of norms of the second order is accompanied by the generation of at least an equal number of virtues. The character of a person in any society, with the sole exception of the Republic of Man, needs to be equipped with more traits than merely the basic virtues. So, for instance, in a society where personhood is defined, among other things, by membership in a certain religious sect, a person might need to possess the virtue of 'piety' in addition to all those more universal ones. In a very strict sense, these second order qualities share the name of 'virtues' only by analogy. For being only contingently fundamental, they lack the universality of basic virtues. But, in fact, and in so far as they help shape and define the character of persons they are virtues in the general sense in which we are using the word. In this respect, it is important to keep in mind that the loss of these virtues involves the automatic loss of personhood.

At this point, it is imperative that we pause for a while and try to clarify something that, without much discussion, we asserted in the first chapter, to wit, that universal norms and norms of the second order are learned simultaneously. It is obvious that it could not be otherwise, because if it were the case that the formation of the moral consciousness of

the person proceeds in two steps, i.e., first the acquisition of the conviction that universal rules have to be followed, and, afterwards, the development of a respect for secondary rules, the process of socialization would be, in the best of cases, very slow and painful, and, in the worse case, impossible.

This is due to the fact that having once learned to extend the concept of personhood to all members of the human species, a young person would regard the process of incorporation into his society as a moral degradation, that is to say, he would by necessity perceive the values of his society as substantially inferior to those he had initially learned. But in most cases, the aim of socialization is the formation of conforming citizens, not the breeding of rebellious discontents. In fact, I am tempted to see in a conflict much like the one just described, the origins of the dissatisfaction of contemporary youth in those nations that are officially committed to universal virtues. Be it as it may, there is, then, a necessity for the coordination of the process of assimilation of universal rules with that of the assimilation of secondary rules.

It is indisputably true, on the other hand, that the acceptance of particular secondary rules cannot originate solely in the primordial act of rationality. Asserting such a thesis would be tantamount to claiming that there are certain necessary criteria of selection and discrimination, which is, in the light of our previous discussions, simply an absurdity. For insofar as they are not conditions of possibility of human

social life in general, such criteria are contingent by definition.

But, far from being illuminating, these last remarks further complicate things by presenting us with the task of explaining how it is possible that, not being directly derived from the primordial act of rationality or, to say it differently, not corresponding strictly to the dictates of natural reason, second order rules are, nonetheless, accepted as indispensable and learned or assimilated simultaneously with the universal norms. The answer to the first part of the question requires that we recall the last set of virtues corresponding to the fundamental norm of justice, that of 'lawfulness' or 'respect for law.' Consider a secondary rule that introduces ethnic criteria as additional qualifications of personhood. What we could call the 'content' or 'substance' of that rule can obviously not originate directly in natural reason. This is not the case, though, with its 'form,' i.e., with its lawful character. Having generated the idea of law or norm in conjunction with the generation of universal norms, human reason is free to extend this idea to other entities and thus, by 'analogy' generate as many secondary or other rules as necessary. In the case of secondary norms, this quality of lawfulness is bestowed upon them by their immediate association with universal rules.

This, however, is not enough to elucidate the process by which concrete secondary rules are acquired. All we know so far is that they have a lawful character, and that their

content does not arise from the dictates of natural reason, or, to put it differently, we know that they are not innate. But if they are not innate, they must be 'learned.' What learning means in this context, what the causes are that prompt us to learn certain specific rules, we will, hopefully, discover later. At this point, let us be satisfied with an explanation by analogy, that seems to me rather illuminating. I have in mind a comparison between the process of language learning and the acquisition of moral maturity. Children, when they first start learning the grammatical rules of a language, make over and over again certain fairly standard errors, that stem from their incapacity to realize that there are exceptions in the application of the rules they are struggling to assimilate. Linguistic proficiency is signaled by the disappearance of such systematic errors from the performance of the child. Mastery of the exceptional, rather than blind application of rules, is the work of maturity. The same is true, it seems, in the case of morality. Because it is implacably logical, blindly rational, the morality of someone who has not mastered the extensional limitations imposed upon universal laws by secondary rules, appears, to his fellow persons, immature and unsatisfactory. No one who lacks a feeling for nuances and detail can be said to have moral understanding in the full sense of the term. In Camus' play, it is the deliberate and systematic disregard of just such nuances, and the resulting inflexibility in the application of rules

and principles, rather than his innate cruelty, that turns Caligula into a tyrant. What to the simple-minded moralists may appear as 'corruption,' is, in many cases, the safety valve that makes social life possible under difficult circumstances. Walter Benjamin is reported to have said to some of his friends, who, their hearts filled with moral indignation were furiously complaining about the corruption of government officials during the first years of the Nazi regime, that it was precisely this corruption that had prevented the Nazis from enforcing certain laws that would have turned Germany into a more fearful hell. P. Geach makes a similar point in his book on the virtues. But let us leave here this most fascinating and disregarded topic, which, strictly speaking, is only of marginal importance for our present discussion and go on to investigate the nature of what, for the lack of a better name, we can call 'tertiary' or 'nonfundamental' moral rules.

Second order or secondary rules have two functions, to wit, limiting the range of applicability of universal moral norms, and introducing additional demands for the acquisition of personhood. But no matter how we force our imagination, and unless we are willing to falsify reality, it is doubtful that we can fit all the rules of a society into this last category. Consider, for instance, what is often referred to as the rules of 'professional ethics,' that is, the rules that apply to persons not qua persons, but qua members of a professional or occupational group such as lawyers, physicians,

teachers, priests, journalists, etc. Think also of the rules of courtesy, etc. It is only recently that such rules have caught the attention of students of society, but they play an undeniably important role in the life of persons as do, increasingly, rules included in the different particular codes that constitute the bulk of modern legislation. This last type of laws, though, can in a sense be said to derive from the rules of the second order, or, at least, they can be thought of as being partly determined by them. A secondary rule that consecrates private property will clearly inform all legislation concerning contractual transactions. Moreover, contractual law will assume that the contracting parties possess certain basic virtues such as truthfulness, for instance. But this does not mean that these types of laws or rules are entirely reducible to one or both of the other types. All it means is that they too apply to persons, although they are not constitutive of personhood. The question remains, of course, whether the preservation of the quality of personhood is at least partly contingent on the obedience of tertiary rules. Boldly speaking, the answer has to be yes. For, insofar as the compliance with tertiary rules presupposes the possession of basic and secondary virtues, systematic violation must eventually lead to a loss of personhood. But this bold yes needs to be qualified, since obviously not every single violation of a rule of courtesy entails an automatic depersonification. In all societies there is a certain room for eccentricity and, what is more,

sometimes eccentricity is perceived as a sign of superior quality or excellence. It would seem, then, that there are degrees of tolerance in regard to the violation of tertiary rules. That this is possible, is another indication that they are not constitutive rules of personhood in the sense and to the extent that the other two types of norms are.

Granted that there are tertiary rules, we still have to establish what their function is in the totality of social life. Is a society conceivable which does not possess tertiary rules? In a sense, the answer to this question can be yes, since by definition tertiary rules are not conditions of social life. But we have to be very careful, lest we want to allow ourselves to be imprisoned by a grave misunderstanding. Supposing that there are such things as pure categories of the understanding in the Kantian sense, it would make some sense to claim that intuitions are strictly speaking not required for the production of knowledge, after all, all knowledge could be dialectical. But what makes no sense under any circumstances is the claim that without intuitions there can be knowledge of objects. Similarly, it makes no sense to try to picture a society without tertiary rules, because they are the natural outcome of a collective behavior aimed at materializing the fundamental moral rules under precise and definite circumstances. This last clause is of primary importance, for it defines the proper place of the material or, if you prefer, environmental conditions of social life. What this means will be

clarified in the following pages. Here it is important only that we make an effort to understand the expressions 'material conditions' and 'environment' in the most ample sense, so as to allow them to refer to both cultural and natural elements.

It follows from what we have been saying concerning tertiary rules, that it would be a mistake to view them as totally or fully arbitrary precepts. The latter has been a prevalent view among social scientists in the past. Lately things seem to be changing not exclusively but partly due to the influence of the structuralist school as developed in the field of anthropology. The new discipline of 'Semiotics' or 'Semiology' is also contributing to this change in perspective, which obviously constitutes a step forward in the efforts to develop a science of man and to come to understand the nature of human existence and of the human spirit. The dismissal of most of human behavior as arbitrary betrays a reactionary and elitist conception of man as an 'irrational' being. Although probably with many qualifications and limitations, the principium reddendae rationis underlies the conduct of man. What a miserable and despicable creature man would be if more rationality were to be found in the behavior of stones than in his own!

But in order to understand in detail how tertiary rules relate to secondary and basic rules, first we have to study the nature of the 'determinants' of morality, for they are, by definition, the elements that fix the conditions or circumstances in which a system of morality is to be actualized.

3. The Conditions of Morality

In what follows, we will be attempting to establish whether moral ideas and, concretely, secondary and tertiary moral rules are determined by natural, cultural and other factors. We will try to comprehend, also, the mechanisms, if any, through which this determination occurs.

Now, in the first chapter we have already explicitly rejected any attempt to reduce all morality to the status of mere ideology, where 'ideology' has to be understood as denoting not only a distorted view of reality, but also a wholly dependent and conditioned entity. To the extent that it is right, our discussion of the nature of morality as reflected in the basic moral norms proves this point beyond doubt, for morality has not only been shown to be autonomous in relation to all other realms of social life, but, what is more important, a condition sine qua non of all action, including production. Morality, therefore, cannot be confined, as a whole, to the realm of the superstructure, to use this more or less popular terminology. The notion of a utterly ideological morality is a contradiction in terms, and we do not need to waste more time discussing such a view.* Then, if there is a determination of moral ideas, it must have to do only with secondary and tertiary rules and through them, but only tangentially, with the primary or basic rules.

* Later in this paper we will be concerning ourselves, nonetheless, with those aspects of Marxian ethics that go beyond this simplistic view.

So far we have said almost nothing concerning the relationship between morality and the environment, save the platitude that, if human social life is to materialize, an environment endowed with the qualities indispensable for the satisfaction of human needs is necessary. In fact, all the prerequisites of human social life without exception derive from the characteristics of man, none from those of nature. Strictly speaking, therefore, not a single condition of possibility of human social life can be deduced from the observation of nature. There is nothing in nature that 'determines' how human social life should be organized, for none of the qualities or lack of qualities of nature is a prerequisite of social life; none of these qualities is the basis for a deduction of a condition of possibility of social life. This does not mean, nevertheless, that nature cannot 'condition' human social life. To say that nature 'conditions' human social life means, simply, that nature sets the framework in which it can materialize. This distinction seems to me to be crucial. Ignoring it leads inevitably to self-contradictory positions as the one mentioned above. Although not explicitly stated at the time, it underlies, for instance, the discussion concerning the difference between the social and the geographical spaces.

Much of the extreme determinism from which many Marxist thinkers seem unable to extricate themselves, originates, perhaps, in a misperception of this relationship. The materialization of the function of production, which the Marxists have

correctly perceived as the most immediate link between nature and social existence, is contingent, as we have seen, upon the appropriation of a parcel of territory, i.e., of certain resources. But what follows from that is not that production is necessary because nature possesses certain resources. Production, that is, the collective action of man upon natural resources is necessary, because man has certain needs and these needs cannot be satisfied by reflective action, i.e., by the action of man upon his own nature. In other words, what we could call the 'intentional' character of human social action is not determined by the possession by nature of certain resources, but by the characteristics of human nature as such. In a way, the old view of the Providencialists is perfectly correct, for it is a sort of miracle that nature happens to have those things needed by man for the satisfaction of his needs.¹ To use the word miracle in this context is of course meant merely as a way of emphasizing the relative independence of the conditions of human social existence in relation to nature.

What does it mean to say, then, that the environment 'conditions' morality? Simply, that social life has to be 'accommodated' to fit the qualities of the environment, those, that is, that cannot be modified irrespective of the quality of the environment. Humans living in society must possess the essential virtues, what can be, so to say, 'accommodated' is the mode in which these virtues will be exercised, in other

words, the manner in which the basic virtues will be qualified by those deriving from secondary and tertiary norms.

Hopefully this has helped clarify the very first statement of this part of the paper. Our task, then, must be to clarify the way in which the environment, understood as a collection of both natural and cultural elements, works upon secondary and tertiary rules. There is, of course, no way to know a priori which are the environmental elements that ought to be taken into account, for it is impossible to offer a deduction of the qualities of nature. Besides, as we have just established, nature is, as such, indifferent to human social existence. What can be done, though, is an indirect deduction not of the properties that nature in fact possesses, but of those that it ought to possess in order to become the recipient of human social life. That is, given the list of fundamental social functions of intentional character, i.e., mostly the fundamental social functions of production, health-preservation and, to a lesser extent, defense, one can determine the kinds of qualities of nature that would be relevant to their materialization. All these qualities can be grouped under the heading of 'geographical factors.' The cultural elements of the environment which are influential upon morality are more difficult to detect. We will limit ourselves to treat them one by one, relying on tradition and intuition to choose those to be analyzed. Lacking a comprehensive theory of culture and, moreover, lacking an in depth understanding of each of the

elements of culture, we cannot aspire to do more. I have found in M. Ossowska's book what seems to me a fairly acceptable listing of elements that might be thought to have a role in informing moral ideas. Ossowska's list must be complemented, though, if we want it to include two of the elements that have become crucial in modern societies and that, therefore, cannot be ignored by us. I am referring to the science of biology and modern technology. All in all, then, we will consider the following factors: geography or physical environment, economic, political and social structures, religion, psychology, cultural traditions.

a. Geography and Morality

The idea that the physical environment determines or substantially affects the way of being of humans is, as is well-known, rather old. It underlies all of Western medical thought since the time of Hippocrates and Galen, and, from Ibn Khaldun to Montesquieu and Plekhanov and some of the contemporary ecologists it has been present in historical, sociological and political works. Most of the time, though, the 'environmental thesis' is presented in a somewhat confused and vague fashion, mingling several related but not identical hypotheses, which a brief analytical exercise can separate.

The Hippocratical version of the thesis,² for instance, includes at least four distinguishable claims, to wit, that some elements of the environment (water, wind, location) can determine 1. the health, 2. the appearance (size, form of the

head, bodily structure, etc.), 3. the character of individual persons and notions and 4. that the form of government of a nation can also affect the character of the persons living in it (those people who do not govern themselves are less courageous and enterprising than those who do). To simplify matters we could group claims 1. and 2. into one, i.e., that the environment affects bodily processes. The question whether this has anything to do with determining moral ideas, we will leave for later; 4. can also be left waiting for awhile; 3., on the other hand, is the claim that most people seem to have in mind, even when they do not clearly say so, when they say that morality is affected by the physical surroundings. Ibn Khaldun,³ for example, closely follows Hippocrates, whose theories he had assimilated by reading the works of the Arab physicians of his time, in postulating a sort of complex effect of the environment on the character of people and, finally, on the social and political structure of nations. The geographical position of the places where they live, plus the kinds of things that they eat and drink, determine directly the temperament of people. So, those who eat too much butter will not be enterprising, and hence, will not be able to construct a powerful nation. Those who live in very warm climates, on the other hand, will have unstable and rather joyful characters, but will lack the virtues required to build a well-organized and culturally sophisticated society. In other words, by determining the character of people, the physical environment

determines also the sorts of societies they can have. To some extent, it is not farfetched to claim that Ibn Khaldun conceives the relationship between environment and character in dialectical terms. First, the environment determines what the people living in a certain area can eat and produce, and then, because they eat those things, they develop a certain character and try to organize their society in ways that will conform to this character. But, in doing so, they commit themselves to continue living in the same environment and to enhance by their action those same qualities that proved to be determinant.

Like Ibn Khaldun, Montesquieu⁴ also believes that the climate and the soil are determinants of the character of men and, consequently, of the kinds of laws they give to themselves. But this determination is not conceived as an automatic and one-sided process by Montesquieu. For although men living in a certain climate are naturally inclined to adopt those forms of life and philosophies more closely compatible with the conditions created by the climate, they can, if they are wise enough, escape their fate by promoting through legislation conduct opposed to that forced upon them. So, the Hindus are not particularly wise legislators, because, living in a warm climate, they adopt a philosophy of life that encourages passivity, which is the same quality promoted naturally by high temperatures. In contrast to this, the Chinese have proven to be wise legislators, for, to minimize the effect that the climatological conditions of their land could have on them,

they have "made their religion, philosophy, and laws all practical." They know that "the more the physical causes incline mankind to inaction, the more the moral causes should estrange them from it."

The conditions of the 'soil,' i.e., whether it is fertile or not, play, according to Montesquieu, an important role in determining the sort of government that a nation will adopt. Fertility of the soil is accompanied by tyranny, for men who live in riches, for the most part, care little about their form of government and, certainly, they do not care enough about it so as to be willing to fight for liberty at the expense of their wealth. Where the soil is poorer, there people are more likely to be freedom-loving and independent minded.

Population density is also closely related to the climate and the conditions of the soil. Temperate zones of the planet, which also happen to be accessible and rich, are more likely to be less stable and more scarcely populated, than poorer and more rugged areas. This is due to the fact that good environmental conditions encourage invasions and hence, war and instability. In such areas too, the ratio between the females and males in the population is going to lean in favor of the former, which, in turn, is going to have an effect on legislation concerning marital relations and all things related to them.

Ibn Khaldun and Montesquieu illustrate with their claims the three main effects that geographical determinants

can, in principle, have: 1. conditioning of character, i.e., virtues; 2. conditioning of the kinds of laws and norms accepted by a society and 3. conditioning of the institutions established in a society. More recent authors have, for the most part, as far as I have been able to establish, simply reiterated, sometimes giving more examples and illustrations, these basic ideas. G. Plekhanov⁵ has been, perhaps, in our day, the one philosopher to push the doctrine of geographical determinism to its most extreme consequences. He does it by reducing Marxian economic determinism to geographical determinism:

When we set out to explain history from the materialist standpoint, our first difficulty, as we have seen, is the question of the actual causes of the development of social relations. We already know that the "anatomy of civil society" is determined by its economic structure. But what is the latter itself determined by?

Marx's reply thus reduces the whole question of the development of the economy to that of the causes determining the development of the productive forces at the disposal of society. In this, its final form, it is solved first and foremost by the reference to the nature of the geographic environment.⁶

Partly conscious, I suppose, of his 'un' or anti-dialectical oversimplification of Marx's doctrines, Plekhanov says a little later, trying to qualify his geographical reductionism, the following:

The influence of geographic environment on social man is a variable magnitude. Conditioned by the properties of that environment, the development of the productive forces increases man's power over Nature, and thereby places him in a new relation toward the geographical environment that surrounds him. . . . Thus it is established that the character of the inhabitants of a given area can be modified substantially, although the geographical properties of that area remain unchanged.⁷

This last qualification has Hegelian overtones; the only difference is that here the "Productive Forces" have taken the place of the "Spirit," and added to the "mild Ionic sky" they might, for all we know, help "produce the charm of the Homeric poems." In fact, though, Plekhanov seems to believe that the Ionic sky alone can produce Homers. But this is a discussion that we need not pursue any further at this point. As for Plekhanov's simplistic understanding of historical materialism, our brief presentation of some of Marx's theories in the first chapter should be more than enough to expose it. Plekhanov is of interest to us here only as an example of the mode in which the relationship between social existence and nature is generally conceived. And, indeed, there seems to be an element of truth in this conception, for obviously, if we consider a territory inhabited by people who have not mastered the technical means required to engage in large scale commerce and exchange, we will soon realize, as Plekhanov correctly points out, that their productive capabilities will be absolutely determined by the resources made directly available to them by nature. So, for example, they might have to become a culture of fishermen. Furthermore, if the fish available in the surrounding bodies of water are not abundant, our fishermen are likely to develop a closed society, isolated and protected from intruders by xenophobia and highly developed military institutions. Being a person and being a fisherman in such a society might well be synonymous concepts, but, at any rate, the range of applicability of the notion of personhood will be fairly reduced.

So far, we seem to have granted that geography can operate upon social life in at least two of the three ways we distinguished above. In the first place, by offering a limited choice of usable resources, nature promotes legislation that both encourages fishing and makes it into the predominant productive activity, and also legislation that regulates the behavior of people in ways appropriate to and compatible with fishing. On the other hand, by presenting our fishermen with the realities of scarcity, Nature inclines them, firstly, to impose strict restrictions on the attribution of personhood, and, secondly, to emphasize the role of the institutions of defense. Note, in respect to the last point, that the claim is not that scarcity imposes the institution of defense as such, but simply that it inclines people to assign to it a greater significance in the life of their community. The difference is crucial, as can easily be inferred from our previous discussions.

Note, too, that according to the characterization of secondary and tertiary norms offered above, the first case of geographical conditioning can be described as the creation or introduction of tertiary rules, while the second, i.e., the imposition of restrictions on personhood, is nothing but the introduction of secondary rules.

But there is more, for favoring certain institutions implies favoring the virtues that correspond to them, and, in a very precise sense, doing so contributes to inform the character of the persons of a society. The same thing follows

if we consider that the introduction of tertiary and secondary rules is accompanied by the introduction of new virtues, which complement the basic virtues. The character of a person, at least what we could call his 'collective' or 'national' character, is, mainly, the sum of the basic and other virtues required in his community.

Before continuing, a brief commentary is needed on the notion of 'collective character.' It would certainly be absolutely ridiculous to pretend to ignore the fact that there are immense temperamental and personality differences between the individual members of a community. But, here again the presence of a diversity should not prevent us from detecting the basic unity behind it. The notion of 'collective' or 'national character,' like the notion of 'human nature,' is not an arbitrary invention, but a presupposition for social existence. It merely indicates that all people living in the same society must, to a certain extent, cherish the same virtues and respect the same values. The greater the uniformity of feeling in this regard, the greater will be the degree of homogeneity in a society. Later we will have a chance to come back to this issue, but for now it is important to keep in mind that whatever the differences between persons, there is a certain degree of unanimity that is necessarily required of them.

So, we have accepted as fundamentally true the three claims of Ibn Khaldun and Montesquieu with which we chose to

to concern ourselves. But it is time that we ask ourselves whether we are going to agree also with Montesquieu's thesis that the determination of laws and character by the environment is not automatic. In other words, we want to know the extent to which a group of people can choose to ignore the demands placed upon them by Nature.

The history of ideas is plagued with recommendations to try to find happiness by systematically pursuing detachment from nature. So pervasive and insistent is this idea that Hegel thought he ought to include it as a fundamental moment in the history of the Spirit. Hindu philosophical thought is impossible to understand apart from this idea and even the political realities of modern India, according to certain perceptive observers, are doomed to remain an impenetrable mystery unless seen through the lenses of the Gandhian ideal of detachment. Some have equated detachment from nature with submissiveness and cowardice, some, on the contrary, have thought of it as the only means to preserve the inherent dignity and liberty of man. Spinoza is, perhaps, the strongest and most coherent advocate of this last view in the West.

Surprising as it may at first appear, I think that it can safely be said that in the last centuries there has been in the West a remarkable decline in the traditional interest in speculation on the proper relationship between man and nature. This is, no doubt, due in part to the widespread acceptance of the conviction that nature is an 'object' that is to be tamed and conquered and utilized as a mere tool. It is

only in extraordinary circumstances that nature is viewed as possessing a 'soul' of its own and, thus, as capable of posing a threat of sorts. For the most part, nature or, the 'it,' as Martin Buber calls it, is conceived as a mere container and, at most, as a passive provider and only rarely is it thought of as an independent source of goals and purposes. The still prevailing modern Western ideology will have us believe that man can, freely and capriciously, choose his own goals and, increasingly, ignore the demands of nature. It is only very recently that some of the most lucid minds are beginning to realize that there might be a limit to the caprice of man, and, louder and louder, we hear talk about the 'limits of growth,' and the 'limits of development' and the 'myth of progress.' These concerns have only begun to be presented in some sort of systematic manner, E. F. Schumacher's recent book⁸ being a good example of that.

Schumacher argues that nature, which has traditionally been treated as 'income' rather than as 'capital' by economists, must start to be perceived as the latter if there is to be any chance to escape the catastrophic collapse of civilization. In real terms, this would mean that nature will no longer be regarded as 'expendable,' and hence, provisions would have to be taken to avoid exhausting its finite resources or drastically altering the natural balance of its elements. So, instead of the Baconian 'control' of nature, Schumacher advocates a respect for nature. Although in both cases the investigation of its laws and principles is encouraged, in the first case

the knowledge obtained was to be used for the exploitation of nature, in the etymological sense of taking advantage of it, while in Schumacher's eyes, all knowledge of nature has to be transformed into an effort to preserve it, i.e., to help it persevere.

This change in perspective, seems to me, is far from being accidental, rather it shows that the demands of nature cannot forever be ignored. The appearance that they can be ignored stems from the fact that they do not generate moral rules, i.e., that they are not the source of absolute obligation, a privilege reserved exclusively to human nature. That this is the case, is exhibited by the fact that even in the presence of the worst natural catastrophies, such as the danger of starvation, etc. moral dilemmas do still arise. So, to use a classical example, if ten people are in a boat and they establish beyond reasonable doubt that their food and water supply will suffice to maintain only five of them alive, the answer to the questions whether it is correct that five should be allowed to die and, if so, who these five should be, cannot be found by scrutinizing nature. This is due to the fact that our behavior towards nature is never 'moral' as such, although it can have moral implications. In regard to nature it is best, therefore, to follow Montesquieu and use the words 'wise' and 'unwise.' Wasting the resources of the earth might be termed an 'unwise' or 'stupid' thing to do, but, in itself, such behavior does not imply immorality of any sort. The term 'immoral' can be introduced only when other person are,

directly or indirectly, affected by a certain attitude. Or, to put it differently, until people start dying because of the pollution of the air, recommendations to limit pollution will have to be done in terms of 'prudence' rather than in strict moral terms. To summarize, then, indifference towards nature is possible only as long as it does not cause damage to other persons.

But this still fails to provide an adequate answer to our question as to the reason why the requirements of nature cannot forever be ignored. Let us again have recourse to our imagination and suppose that the earth is endowed with infinite resources. In the first place, it is clear that even then nature could not be totally ignored, due to the intentional character of some of the fundamental social functions. If at all, it would have to be ignored in the sense that bothers the ecologists, that is, in the form of a legislative disregard for nature and the preservation of the ecological balance of the planet. Now, if we assume not only that natural resources are inexhaustible, but also that the earth's surface is interminable and that the ecological balance cannot be given a final blow no matter what, then this partial disregard of nature would, in principle, continue for as long as man resides on this planet. But, as a matter of fact, these are not the conditions under which social life has to be materialized, and therefore, apart from the transcendental reasons that we have considered above, there are empirical reasons

requiring the appropriation and the defense of territory. These reasons, as is notorious, have been analyzed ad infinitum by anthropologists and social biologists and they have a primary role in the political life of nations. Wars and other phenomena such as colonialism and imperialism are partially accounted for by regarding them as an international struggle for natural resources, and to a great extent, intertribal feuds are the result of efforts by all the parties involved to preserve a 'Lebensraum' big enough to allow them to migrate periodically from one part of their territory to another, in order to avoid the exhaustion of the terrain and the excessive pollution of a particular area. This is true especially in areas like the Amazon jungle, where nature is particularly sensitive and fragile.

It is fairly obvious that because of the factual limitations of nature, a political entity comprising all humans as persons is not compatible with even its partial disregard. And it is also clear that as long as such an entity does not exist, nothing but a period of increasingly serious conflicts among the various nations and groups of nations can be expected. But although we cannot now go into a lengthy discussion of these issues, let us finish this part of the paper by analyzing how the idea of a universal state or nation relates to our account of secondary and tertiary rules.

In the first place, let us inquire whether the incorporation of the entire surface of the earth as its territory

would make a state universal in an absolute sense. The answer is 'clearly, no!' Nominally, of course, such a state would be entitled to the qualifier 'universal,' in fact, though, the possession of all the territory available on earth is compatible with the existence of limiting or secondary rules, that is, with rules that restrict the attribution of the attribute of personhood to a few. Moreover, if these few had the power to do so, and were unwilling to restrain their use of the earth's resources, they could easily do so, by simply regarding the lives of the many non-persons as dispensable. In our time something quite similar is occurring. For if we see the industrialized nations begin to consider the need to control their exploitation of nature, it is certainly not because of their concern for the people in other parts of the world, a concern that they satisfy with periodical statements of concern, but only because they themselves are starting to feel the effects of their carelessness. In conclusion then, the territorial unification of the earth, is, by itself, not enough to bring about the unification of mankind understood as its uniform personification.

It seems to me also that it follows from what we have been saying that the assumption, popular among socialist thinkers of all kinds, but particularly among Marxists, that abundance of resources is enough to generate the brotherhood of man, is false. In fact, we can even go a step further and claim that Marx's more prudent statement that abundance is a condition sine qua non for the establishment of an egalitarian society

is also false. Both versions of the belief ignore the transcendental character of personhood, for if personhood is really transcendental, then it follows that, in principle, men could decide to establish an egalitarian society even under conditions of relative scarcity. All they would need to do is introduce tertiary rules that insured that their consumption remained at subsistence levels. Naturally, they would also need to emphasize certain of the basic virtues. In other words, it is, in principle, not impossible that a humanity fully committed to the ideal of equality could choose extinction, rather than admit the introduction of inequalities. That is, if the physical environment operates as a determinant force in relation to human social behavior, it is due not to any kind of absolute or logical necessity, but merely due to practical or contingent necessity. Or, to put it differently, it is not necessary in any absolute sense that basic norms be qualified, it is only possible, and, so to say, common that this be the case.

b. Morality and Technology

In our age we can hardly deal with any issue without making some reference to technology and its impact on our ways of living. Spengler⁹ believes that this concern, more than anything else, is what characterizes and distinguishes the present historical period, which, he estimates, started in the past century with the development of machine-technics, the pillar supporting Western Faustian Culture. It was to be expected therefore, that opposing ideological camps would develop in the

inevitable debate concerning the moral character of technology. Spengler mentions Marx and Lenin and, in general, the Materialists of the XIX and the first part of the XX centuries as the "half-educated" advocates of technology. Many others, I suppose, could be added to that group, in fact, most Socialists were firm believers in the liberating powers of machine-technics. As is well known, Marx ridiculed the English workers who turned their rage against the machines. Marx's criticism is due only in part to the fact that in so doing, the workers failed to recognize the 'real' cause of their exploitation. To a great extent, this criticism reveals Marx's belief that machine-technology, the second basic component of the modern productive forces, the first one being socialized labor, is in itself good. After all, it is the machine which is the one tool that is going to generate the wealth and abundance without which socialism would be impossible. The detractors of technology, whom we could for lack of another name, call 'Spiritualists,' see in tools and machines the incarnations of evil, destructive forces, that somehow or other, threaten the 'fine nature of man.' They warn us that the machines are slowly usurping our place in the universe, that they are dehumanizing our lives. In the popular fantasy, such fears generate rebellious computers, that lacking all other sentiments, mysteriously develop a will to power and take over the world, enslaving man. Among other things, what makes this paradoxical fantasy so interesting, is that it exhibits the 'real' image of technology

proper of our age, i.e., as intimately related to power, as a form of power. The fantasy loses its paradoxical appearance as soon as we understand that what people fear is not technology as such, but power and, mostly, the danger of this power getting out of hand, totally escaping their capacity to control and check it. But these are other matters.

As Spengler also points out, most people who talk about technology have in mind tools and machines, artifacts of all sorts, which can be used to solve certain practical tasks. This is, so to say, the crude image of technology. There is a second, more ethereal concept of technology, which can be called Aristotelian-Spenglerian concept. Here technology appears as an art in the general sense of the word, as 'techné' or, as Spengler calls it, as a 'strategy for living.' What is emphasized in this second view are not the tools and the rules for their manipulation, but, first and foremost, the knowledge possessed by the artist and, afterwards, the conviction that such knowledge is adequate to meet certain of the many challenges posed by nature. The failure to distinguish these two radically different ways of understanding technology have proven to be a source of confusion in the discussions concerning the impact of technology on human society and human consciousness. Here we are going to try to avoid this mistake.

Among relatively recent authors (now we have not time and no need to trace the history of the idea), who maintain a deterministic thesis concerning the effect of technology on

human existence, the most interesting is, undoubtedly, Marshall McLuhan. Clearly, his conception of technology corresponds to what we have called the 'crude image.' Technology, for him, is the collection of tools or 'media' which, "being extensions of ourselves," have the power to "shape and control the scale and form of human association and action."¹⁰ The statement that media are extensions of ourselves is to be understood quite literally. The wheel, for instance, is for McLuhan nothing but an extension of our legs, an image equivalent to our rotating legs. The second part of the phrase, on the other hand, also has to be understood quite literally. Nationalism, McLuhan thinks, is a direct consequence of the invention of the printing press and of the operation of this apparatus on human consciousness. Although his explanation of this thesis leaves much to be desired, basically it can be reduced to the claim that the:

Political unification of populations by means of vernacular and language groupings was unthinkable before printing turned each vernacular into an extensive mass medium. The tribe, and extended form of a family of blood relatives, is exploded by print, and is replaced by an association of men homogeneously trained to be individuals.¹¹

Let us overlook now the absurd insinuation that the feudal society, out of which the national states developed, had structural similarities with tribal societies. What is important, as far as we are concerned, is to understand how McLuhan pictures the mechanisms of the process of determination that he thinks he illustrates with his example of the relationship between nationalism and the technic of printing from moveable type.

For McLuhan this determination has nothing to do with the content of the media as such, which in this particular case would be the books that were printed. To stress this point, he refers to the fact that more than 50% of the books printed in the two centuries following Gutenberg's discovery were medieval works. McLuhan thinks that the widespread thesis that tools as such are neutral, and only the uses to which they are put are of any moral significance, is nonsensical and betrays a lack of understanding of the nature of tools. The content of a medium, he insists, is always some other medium, e.g., the content of print is the written words, and the content of the latter is speech, etc. The primary impact of a new medium is, therefore, not to be found "at the level of opinions and concepts," but rather "in the change of scale or pace or pattern that it introduces into human affairs." So, the railway does not introduce the concept of transportation, but it significantly alters the pace of transportation. When this occurs, i.e., when one of our senses is extended by the introduction of a new medium, of necessity a new "ratio or equilibrium" has to be established "among the other organs and extensions of our body" and, obviously, the same obtains for their respective extensions, should any exist.

Now, all this process of shuffling and reshuffling takes place at an unconscious level and, it will have the force of the inevitable. What the exact force of this last claim is supposed to be, is unclear to me. For, at times, McLuhan seems to be saying that knowledge or awareness of the operation and the

effects of media, will allow us to have some control over them and, furthermore, that certain social forces, such as religious convictions or class interests, can sometimes pose some resistance to the determination of social life by media. On the other hand, referring to the reticence of certain Oriental societies to assimilate Western machine-technology he says the following:

The spiritual and cultural reservations that the oriental peoples may have toward our technology will avail them not at all. The effects of technology alter some ratios or patterns of perception steadily and without any resistance.¹²

Essentially, then, and whatever its deficiencies, the thesis that McLuhan wants to defend is that technological innovations can determine the way of life and the image of the world of the people that adopt them. As far as I know, there is only one Marxist thinker that has maintained an equally radical thesis. I am referring to Franz Borkenau,¹³ who, in a couple of controversial writings, tried to show how the whole of bourgeois spiritual life is nothing but a mirror image of the techniques of production employed in the different stages of the evolution of capitalism.

This variety of extreme technological reductionism must not be confused with the much milder claim, rather common among historians, that technological inventions have played an important or even determinant role on many occasions. Two excellent

*The underlining is mine.

examples of just such a position are to be found in H. Pirenne's discussion of the impact of agricultural technology upon the socio-political structure of Europe in the Middle Ages¹⁴ and in Lynn White's magnificent classic on the evolution of Medieval technology.¹⁵ To assert that stirrups help win battles against numerically superior forces, has nothing in common with the claim that battles are fought because the intensive use of the radio or of certain other artifacts unconsciously predisposes men to fight one another. That historians have many times underestimated the role of technology, conceived as White and Pirenne conceive it, is simply an indication of the methodological imperfections of their discipline; that very few, so far, have accepted technological reductionism is, on the other hand, a sign of prudence on their part.

In its most serious versions, the Marxist conception of the relation between technological change and social change corresponds to this last category. For the claim is that modern technology, when applied to the process of production, will create the conditions necessary for a humanization of human labor, that it will generate the proper environment for its realization, but not necessarily and automatically produce such humanization. Operating modern machinery is, in itself, not more 'humane' than carrying a heavy load of wood, although it can be made to be so under the proper circumstances.

But let us now try to see, in more detail, how machines could in fact affect morality. Again it is self-evident that

they can have no direct effect whatsoever on the fundamental moral norms, since no matter what the means and tools are that are employed for their materialization, they, being conditions of possibility of social life, will remain basically unperturbed. Affirming the contrary, presupposes the false assumption that the manipulation of nature itself is or can be the source of basic moral norms, but, as we have seen numerous times, basic norms are the conditions that make possible such manipulation within a social context.

At this point, McLuhan could, of course, argue that given that media are extensions of our organs, they can, after having passed a certain threshold, create or generate new needs. Such a claim would have to be granted if any of the artifacts so far fabricated by man had, in fact, substantially altered his organism and, most importantly, if such artifacts had canceled his multirelational character. In other words, only when technical inventions of one type of another cause a mutation of sorts in the human organism, such as to render it invulnerable or unirelational, for instance, only then will McLuhan's imaginary argument be acceptable. This possibility cannot be discarded and, moreover, is, in some sense, fairly plausible, if we take into account many of the techniques now available that could be used to turn our world into a Huxleyan universe. But, evidently, any such techniques would not be simple 'extensions' of the organism; rather, they would be either the organs or the causes of an entirely new organism.

The moral problems that arise in this connection are, certainly, among the most serious of our time. Its gravity has only begun to be understood in the context of the discussion of issues covering medical and biological manipulation of the organism. In general, though, the main reason why they so deeply disturb people is that they sense that what is endangered are not only this or that particular moral code, but the very essence of human morality. We can expect, therefore, that a great opposition will develop in the future of the unrestricted use of technological innovations. As a matter of fact, it is quite probable that new concepts will have to be developed in the area of penal law to account for 'scientific crimes.' But, what seems absolutely inevitable to me is the collapse of the modern notion of the absolute right to engage in scientific research and experimentation. Such a notion is compatible with a level of scientific and technological development which is underdeveloped enough to remain substantially harmless in respect to its effects on human life. It is, hence, a notion that corresponds to the heroic times of modern science, to the period when scientists and inventors, like small children, could be allowed to run free and, even, to be naughty once in a while. Mature science, like mature men, needs to be controlled and regulated, for its behavior is potentially harmful. And this we can expect to start happening soon.

Our question, then, must be whether a 'change of pace' caused by the introduction of new means of doing things does have an effect on morals. This much, I think, has to be granted. Consider the changes brought about in this century by the introduction of such means of communication as the telegraph, the radio and television. Once adopted, they become a fact with which individuals, classes and government alike have to deal politically and morally. Given their potentiality to cover the entire surface of the earth, no nation can afford to simply ignore the existence of these media, without putting itself in dangerous strategical disadvantage. The same is more obviously true for other inventions such as atomic weapons. No nation can fail to take them into account in its calculation when determining the course of its international politics, for the only conceivable way of effectively liquidating their potential effects is by means of an all-inclusive international agreement for their destruction. The same, I think, can be said, considering the different levels of generality that are possible from the communal to the international level, of all inventions. Their effects can be cancelled by an act of will, be it individual or collective, providing, though, that this act of will can effectively be enforced. This is, really, not a rare occurrence, as even a superficial survey can show, for, now-a-days, there are many groups of people who, for one reason or the other, refuse to adopt the use of certain artifacts. But once an artifact is adopted, its use has to be legislated

or regulated. In the case of artifacts that can be used for military purposes, the reasons are self-evident. Not only will it be necessary to enforce in any occasions involving their use all the basic rules relating to the functions of defense, but the actual manipulation of these artifacts will demand that new tertiary rules be created. In relation to the use of radio, for instance, it might become necessary to establish a system of licensing for both political and merely practical reasons and also, in order to preserve the customary distinctions between private and public life, it might prove to be prudent to establish rules concerning the kinds of information about persons that can be disseminated with its help.

There are, then, two fundamental ways in which new inventions can affect social life, one, by forcing legislation directed to make their use compatible with the status quo. We, the ruling class of nation A, decide both to preserve our national identity, i.e., all the secondary rules that separate us from the rest of humanity, and to adopt the use of modern means of communication, transportation and warfare. Such dual decisions will require, first, that we try to neutralize any possible 'universalizing' or 'cosmopolitan' repercussions that the utilization of those means might have, and, secondly, that we introduce abundant tertiary legislation, in the form just described, to avoid disturbing alterations of the pace of life in our society. The second fundamental way in which society and, thus, morality can be affected by technology has to do not with the preservation of the status quo, but with precisely the

opposite: the promotion of social change. This issue has been widely discussed by social scientists in the last decades, but obviously we cannot at this point examine all or, even, some of the views that have been expressed. Here we will treat this matter in very general terms.

An interesting and revealing case to be considered in this context is the effect of the introduction of firearms into the art of warfare. Although, as has more than once adequately been remarked, the principles as such upon which the fabrication of most firearms are based are not new, their impact, measured in quantitative terms, is so great, that many of the secondary virtues required to fight traditional wars are automatically rendered obsolete. An enemy armed with a machine gun cannot be confronted in the same manner as one armed with a sword or a spear ought to be. Sending the cavalry against tanks does not make the commander a great strategist, but, at best, a fool, and, most likely, a murderer.

Modern war does not only require different virtues, but also new skills, which, in real terms, means that the training provided to soldiers must have different goals and orientations. Recent history provides more examples than necessary to illustrate the point that in modern war adequate technical skills can take the place of millions of men. One of the most lucid strategists of our time says somewhere that if the dictum that power originates in the barrel of the gun were literally true, corporals and not generals would be in command.

It seems, then, that technical means, as such, because of the way in which they enlarge our possibilities of action, as McLuhan points out, and because they demand new forms of training, can have an effect on secondary and tertiary virtues and rules. In fact, the deprovincialization, so to say, of humanity that has taken place in the centuries since the beginning of the European expansion is unthinkable without the means of transportation that the technical Renaissance of the Middle Ages and the early Modernity made available to those courageous enough to use them. Without adequate ships and compasses, the Europeans, cut off from the Eastern and Southern coasts of the Mediterranean, would have starved or gone back into barbarism, rather than build empires. On the other hand, if, for many centuries, the universal ideals of Christianity were nothing but a vague and empty piece of rhetoric, it was partly because the lack of information about non-European peoples helped perpetuate a provincial mentality among the Europeans. It is certainly not impossible or unusual, as we have repeatedly seen, but it is much more difficult and it demands much more ideological sophistication, to attempt to deny personhood to those that we are daily on television, than to those about whom we know nothing more than what is reported to us by illiterate adventurers. The Martians will lose their horns when they appear on television talking about potatoes and stomach aches. On the other hand, they might well develop tails, if for some reason, we decide that we need to discriminate against

them. Technical means alone can surely not create a homogeneous social space throughout the earth or the universe, but the concept will forever remain an illusion, were we to lack the proper means of transportation whenever we manage to develop the proper dispositions needed for its materialization.

Why this is the case, is something that can be understood only if one approaches this issue from the standpoint of the ethereal conception of technology. Insofar that it is indeed a 'strategy for living,' a series of programmed and ordered behaviors bound together by a precise aim that help us cope with the demands of nature, technology bridges the gap within the social and the real spaces, between morality and reality. Perhaps, nobody has seen that with more clarity than Heidegger,¹⁶ for technology, conceived as a strategy for living, is both an 'instrumentum,' and a form of putting demands on nature and exhibiting it. As an 'instrumentum' it brings together the goals of man and the means to realize them under given circumstances, but, in the process of doing so, it helps uncover both the gifts, the demands, the limitations and the pitfalls of nature and those of man. This is what the Japanese seem to be painfully discovering. Having adopted Western technology, the Western strategy for survival in the present world in order to preserve their own strategy, they are disassembling the latter bit by bit. Modern technology has uncovered for them new facets of reality and, in so doing, has simultaneously brought to light the inadequacy of their

world-view to cope with them. This is the most important sense in which technology determines morality, i.e., by making it impossible to choose a goal while at the same time refusing to accept the means to realize it, or vice versa. Once the woods on the other side of the river have been selected for the picnic, the means will have to be devised to cross the river; and, in most cases, once the river has been crossed, the picnic will have to take place in the woods.

c. Morality and Socio-Economic Factors

So far, we have analyzed the effects on morality of the physical environment and of technology, now we have to consider the relationship between morals and the set of factors that are best identified as socio-economic and political. This analysis is, perhaps, of a greater philosophical significance not only for intrinsic reasons, but also because of extrinsic or historical reasons. Since the appearance of Marxism, the importance of these elements as determinants of social life has been stressed to the point of almost obscuring all concern for all other elements. This tendency is not completely arbitrary, especially if one considers some of the facts about social life that have been uncovered by the most sophisticated representatives of socio-economic determinism.

In its least developed versions, this type of determinism tends to emphasize the role of population density in the shaping of social relations, i.e., it is Malthusian or, neo-Malthusian in spirit. Such Malthusian theses tend to make

one or both of two fundamental claims: 1. that high population density tends to disrupt the equilibrium between food and energy supplies and the social demand for them, thereby imposing constraints on social life that, if taken to an extreme, could destroy its foundations; 2. that high population density as such, and independently from its effects on the physical environment, creates obstacles for the smooth development of social institutions. Apart from the new prophets of doom and the numerous advocates of population control, the clearest traditional formulation of the first thesis is to be found in some of the writings of T. H. Huxley. Overpopulation constitutes, for Huxley, the worst menace to civilized life, since by exhausting the limited food supply available on earth it will eventually force man to turn against man, thus taking the species as a whole back to barbarism, back to the natural state, i.e., that state in which the struggle for survival leaves no room for the concerns of moral consciousness.

Josue de Castro's now classical works on the nature and causes of hunger have, as is well-known, completely deprived Malthusianism of all appearance of scientific validity. Castro has clearly pointed out the mistakes in the basic assumptions of the Malthusians:

Malthus' theory lacked a scientific basis. His first error was to consider the growth of population as an independent variable, isolated from other social phenomena, whereas in fact such increase is strictly dependent on political and economic factors. His notion of a natural law governing the growth of population was challenged by Marx, who pointed out that what really occurs are historical

tendencies or cycles which change from one period, to another in accordance with changing social organizations.*17

More interesting than the controversy concerning neo-Malthusianism itself, is the inquiry into the motivations of their defenders, which range from class, through national to racial interests.** But, be it as it may, the first neo-Malthusian thesis is absolutely irrelevant from the standpoint of Ethical Theory, save in the limited sense in which it might be interesting to view such thesis as a manifestation of a characteristic feature of Western morality in the XX century.

The second neo-Malthusian claim is to be found in a variety of forms and shapes throughout the history of Western thought from Plato and Aristotle to the XIX century Utopian socialists. Fourier, for instance, as Aristotle before him, feels that an ideal human society, one in which the principles of justice that he advocates can be realized, must have a

* It is, perhaps, important to notice that neo-Malthusian theories are not only based on false assumptions, but also on distorted and inadequate empirical data. For, as is now well known, presently less than 10% of the potentially arable land on the planet is being cultivated. According to United Nations calculations, only 2 billion of the 16 billion acres of agriculturally usable land are actually used. These calculations are notoriously conservative in their estimates of the potentially usable land, for, if de Castro is to be believed, they do not include tropical forests nor rugged and mountainous terrain.

** This last one is the thesis defended by the Brazilian sociologist, Darcy Ribeiro, who sees in neo-Malthusianism an expression of the fear of the "white races" to be outnumbered by the "colored" races, in a period when the latter are becoming increasingly militant in their demands to reshape the political and economical order of the world and, hence, to put an end to the supremacy of the "white races."

limited population so as to maximize the chances of each individual to partake in all the most decisive political debates and events. Both authors see also a definite advantage in the existence of a certain degree of familiarity among the members of a community, an idea that has strongly appealed to many a contemporary psychologist concerned with the eradication of 'anonymity' from our societies. Such 'anonymity' or 'depersonalization' is reputed to be the cause of the collapse of social institutions and social discipline, as well as the cause of severe psychic disturbances.

There is undoubtedly some truth to these speculations, but from the point of view of the theory of universal norms they are senseless, for they ignore the fact that human relationships are 'juridical' in nature. We have seen that the actual familiarity with the person to whom I am related is not a necessary condition for the existence of a social relationship between them and me. I can know my enemies very well on all conceivable levels, or I can have developed a great deal of familiarity with my slaves, but these facts alone do not create a juridical bond between us comparable to the bond between persons. In other words, the number of persons existing in a society does not necessarily affect the moral quality of that society. The universal moral norms, insofar as they are universal, apply equally to two or two billion men.

But although not fundamentally, population density can have some influence on secondary and tertiary norms if combined

with the proper conditions. Consider again the case of hunger. Once we have understood with de Castro that it is a man-made product, let us also accept, for the sake of argument, his claim that when it is widespread, it operates as the most immediate cause of overpopulation. Now, the phenomenon of overpopulation itself cannot be denied, for whatever its unexplored and unexploited potentialities might be, if we consider a given nation at a given time, the disproportion between its agricultural output destined for human nourishment and the dietary needs of its population can be easily calculated. When such a disproportion exists the moral structure of the society in question cannot fail to be affected given the vulnerable character of humans. These effects are likely to be felt at first at the level of tertiary rules. For instance, changes in eating habits and in the notion of hospitality can occur or, even, a redefinition of the concept of health might take place. It is quite probable also that the working schedule of large portions of the population might be modified or, inclusively, that the notion of 'rest' or 'leisure' be subjected to a re-evaluation. These two last examples show how behavior directly determined by primary rules can be affected. But in very extreme cases, and short from the total dissolution of the society in question and its revolutionary reconstruction, major shifts in the range of applicability of the notion of personhood would occur. These shifts are not always explicit and can be camouflaged in various ways, especially where the ruling

groups have an active interest in denying that any serious disruption of the social order is taking place.

As an illustration of just such a process, consider the increase of repression in the Soviet Union during the Stalinist era. The historian P. Medvedev has correctly pointed out that any attempt to explain away the horrors of the time by making vague references to Stalin's mental health or lack of it are absolutely unsatisfactory and do not qualify as serious historical explanations. Much more accurate are, of course, the explanations that take into account the absolutistic and totalitarian nature of the Soviet regime. But it seems to me that there are more mundane facts that should not have been forgotten. A Berle¹⁸ remarks, almost en passant, in his book on the structure of power in the U.S.A., that a comparison of the number of unemployed persons in the U.S. during the period of the great recession to that of prisoners in Stalin's concentration camps during the same period, will show a striking similarity. What Berle is insinuating, of course, is that the introduction of labor camps was, partially at least, a means of dealing with unemployment in a nation where, in principle, all citizens are guaranteed a right to a gainful occupation. Here, then, we would have a case where political and economic considerations come together and make it necessary for the ruling groups of a nation to invent mechanisms of depersonalization to be applied against millions of individuals. The crude accusations of 'anti-state activities,' sabotage, etc. have as a primary function the furnishing of ideological

pretexts for the disqualification of persons. The crudeness of the accusations is to a certain extent explainable in terms of the urgency of the situation. The brutality of the procedures, on the other hand, is explainable only within the logic of legitimization of power underlying the Bolshevik regime. Let me clarify this.

The question is, why did Stalin opt for the institutionalization of lying and defamation and for the brutality of the labor camps instead of simply re-introducing the N.E.P., for instance, or for making some concessions to the Kulaks to avoid a drop in agricultural production and, hence, the danger of mass starvation? The answer is, because this would have deprived him of the arguments that legitimized his power, since, after all, he was reigning in the name of socialism. Hence, he had to act against the Kulaks, but, in so doing, he disrupted the economy and brought the population to the edge of starvation. But, again, socialist principles guarantee all persons a decent nourishment and these principles cannot be ostensibly violated, since they are the secondary rules upon which the order of the whole society and the power of its rulers are supposed to be based. Those that starve, cannot starve because of socialism, they have to starve because they are against socialism, and if there is starvation, it has to be caused not by the action of socialist, but by the actions and plots of the antirevolutionary elements. At this point, the circle is closed and if there are not enough anti-revolutionaries, enough will have to be created.

I have dealt with this illustration extensively because it exhibits the circumstances under which the numerical pressure of the population can become a factor in the determination of the morality of a nation. As is the case with technology, population becomes a factor mostly when it clashes with the rather artificial demands of the status quo, which is primarily defined by the secondary rules which determine the social stratification and, hence, the system of privileges and the power structure of a society. But, at this point, two main questions arise: the one concerning the relation between political interests and morals and the one concerning the relation between secondary rules and socio-economic structure.

The sketchy explanation offered above is based on the assumption, that we have not yet stated explicitly, that ideological factors are involved in the determination of the secondary rules of a society. Actually, I am firmly convinced that this is the case and that the role of secondary rules in human societies is, mainly, that of institutionalizing and legitimizing the power structure. I will now try to explain how it is that secondary rules are generated and, hopefully, this explanation will help us answer the two questions proposed in the last paragraph.

The idea that political interests determine moral beliefs is rather old. It constitutes the kernel of the political theory of the French 'philosophes' who count, in the eyes of most historians of ideas, as the immediate forerunners of the modern theory of ideology. For both Destutt de Tracy

and D'Alambert the truth, which is obtainable by means of the Lockean method of analysis, i.e., the reduction of ideas to its ultimate components, is politically relevant and has revolutionary potential insofar as it can liberate us from superstition and false belief. Superstition and false belief, on the other hand, originate in the conscious or unconscious distortion of reality as well as from the refusal to engage in serious inquiry by the members of the ruling classes. Ignorance proves advantageous to tyrants because it prevents those exploited by them from discovering the true nature of the doctrines used to give their claim to power the semblance of legitimacy. By exposing falsehood and superstition, the science of ideas exposes illegitimacy.

Traces of this idea are to be found in the doctrines of Saint-Simon. The claim to power of a ruling class becomes illegitimate, when this class has become parasitical. And this occurs as soon as the class begins lagging behind the advances of science. The basic contradiction for Saint-Simon, the one that causes revolutions, is the contradiction between the real state of scientific and technological progress and the real capacity of the ruling classes to cope with this knowledge and to apply it productively. When a class falls behind, when knowledge has overcome it, it has to resort to falsehood and lies to retain its privileges. Conservatism or the commitment to the past appears here as a commitment to falsehood.

For the philosophes and for Saint-Simon, the systems of law and morality that arise in periods during which

superstition and illegitimacy dominate the political life, are themselves illegitimate insofar as they encourage types of conduct that are in direct opposition to the natural virtues and inclinations of mankind. The life of the illegitimate ruler is utterly immoral, and instead of being an agent of progress, he becomes an agent of vice and corruption. Here we have the image of the anti-Midas, a Midas who multiplies leprosy instead of gold.

By the middle of the last century this thesis had been taken to its logical extreme by the Anarchists, for whom not only illegitimate power, but all power is corrupt and immoral. Later, Prince Kropotkin offered a mature formulation of this thesis. According to him, there is an inverse relation between moral progress, defined as the refinement of all forms of free cooperation among humans, and the decline of all varieties of political constraint, particularly those forms associated with the operations of the modern state.

The opposite claim, i.e., the claim that the state is intrinsically a moralizing force, has also been very popular in the West. It is, in varying degrees, the view of St. Thomas and of Hobbes. In some ways, Aquinas and the 'philosophes' are very close in their accounts of the relationship between political power and morality, although the doctor Angelicus is much more subtle. For him, the temporal power can be a promoter of virtue and of the good life as long as its mandates are compatible with both the demands of natural and ecclesiastical or religious law, i.e., with the demands of reason and

revelation.* Going a ways beyond this relatively mild claim, Hobbes places the dates of birth of morality and the state in the same time coordinates. By definition, there is no immoral state, since the state is identical with organized social life which, in turn, is the natural seat of morality. We are all aware of the extremes to which some modern tyrants have been taken by their adherence to this thesis. I am firmly convinced that if one digs deep enough, one will find this or similar beliefs underlying any and all forms of tyranny and absolutism. All men that aspire to establish a sort of Parmenidean oneness in the realm of politics will have to rely on the motto of Louis XIV. The advocates of political democracy have always known that and, therefore, they have correctly insisted in avoiding the treacherous identification of society with the state.

* It is crucial to keep in mind that Aquinas finds these three types of law different from one another, what he advocates is the harmonization, not the identification of all types of law. In this respect, his thesis fits well into the characteristic pattern of the Roman Church, that has been criticized more than once by adherents of the Oriental Church for not promoting the unification of church and state. Although I am aware of the controversial character of this thesis, I am convinced that a dispassionate reappraisal of European history will show that one of the factors that made the development of political democracy in the West possible, was, precisely, the traditional rivalry between the spiritual and the temporal powers. Even if the proper socio-economic conditions are present, political democracy cannot develop there where 'foi' and 'loi' are one and the same. The separation between Church and state contributed to the preservation of the image of the state as an alien entity and, hence, to the permanent awareness of the autonomy of social life. In real terms, this means, simply, that people remain at least partially conscious of the fact that social life is the result of their own action. Loss of this consciousness does, of course, not cancel the autonomy of social life, but makes the idea of democratic rule inconceivable.

There is not much, really, that we need to say in relation to this extreme thesis, save that the G.T.H.S.P. shows that the form in which the institutions of a society are administered is of no importance from the standpoint of the essence of these institutions. What gives the basic social institutions their moral character is their deep function, that is, their function as conditions of possibility of social life. The form of their materialization is a contingent fact, and, thus, cannot be the basis for the deduction of their moral character. By 'form of materialization' I mean in this context the way in which the basic or constitutive rules are qualified in each case by secondary and tertiary rules.

In general, I have found that all these discussions concerning the function of politics are unnecessarily complicated by a failure to distinguish between the two meanings of the word 'politics.' This distinction is partially insinuated in many of the works of socialist writers who are concerned with the theory of the state. Both Marxists and Libertarians tend to distinguish between politics as the repressive exercise of power by some men over other men, from politics as the 'administration of things.' The first sort of 'politics' will have banished from the perfect socialist society, from the classless society, all that will be left is the 'democratic administration of things.' The G.T.H.S.P. teaches us that this distinction points in the right direction. For, indeed, there are no fundamental social functions that require for their instantiation the establishment of hierarchical power

relationships among men. Whatever causes these hierarchies of power to appear is a contingent element of social existence. On the other hand, we have seen that one of the fundamental social norms requires that measures be taken to enforce all fundamental norms. Whether this is accomplished through specialized mechanisms or by the collective action of the population as a whole is immaterial. To an extent, we have already dealt with this problem in our discussion of the relationship between morality and law. We established at that point that there need not exist a particular institution charged with enforcing morality as such, so that, if such an institution does in fact exist in a given society, the causes for its existence are by definition explainable in terms of some peculiar characteristics of that society.

One of Marx's most important contributions to social theory has been the discovery that politics, in the first sense we have given to the word, is ultimately related to the socio-economic structure of those societies where it exists. In class societies the administration of morality becomes specialized and it is taken over by those groups that have monopolized political power. This is necessarily so because what the ruling classes seek to enforce are not the universal moral norms simpliciter, but the universal moral norms as qualified or limited by those secondary rules which justify their privileges and their claim to power. Marx has forcefully made this point by arguing that, in class societies, the prevalent morality is always the morality of the ruling class.

The impact of this discovery had a numbing effect on Marx himself and, to a great extent, continues to have the same effect on his followers. This accounts, partly at least, for the fact that Marxists have been utterly incapable of developing a coherent and comprehensive account of morality.¹⁹ Lenin, for instance, maintains a very confusing position in regard to the existing universal moral norms. On the one hand, he seems to believe that there are in fact such norms, for he lists as one of the conditions for the realization of communism that "people should become accustomed to observing the fundamental rules of social intercourse,"²⁰ but, by the way he formulates this thesis, he implies that compliance with these norms was continuously imposed upon people in all previous societies, hence in fact denying that they are fundamental, i.e., conditions of possibility of social life. What Lenin fails to see is that the bourgeoisie did not seek to impose social life as such upon people, but, merely, a way of living that life, i.e., certain secondary rules. Given that man is capable of committing suicide there is no amount of terror or repression that can impose upon large numbers of men the obligation to live in society for a prolonged period of time, this obligation, as we have seen, is natural and depends upon the exercise of reason, not of force. All that can be imposed is a form of life, a set of particular arrangements, and this is exactly what the ruling classes attempt to do when they assume the task of administering morality. We see, then, that power

is not inherently related to morality, but only contingently so, since repression and the creation of specialized organisms for the administration of human social behavior are necessary only for the enforcement of limitations upon the universality of fundamental norms, and not for the enforcement of these norms themselves.*

If we accept G. Lukacs' definition of 'ideology' as a 'unilateral' conception of reality, we can characterize secondary norms as ideological, at least those that originate in the interests of a given class, for, if our conclusions in the two previous sections are correct, we have to admit that there are certain secondary rules imposed not by the will of a class, but by geographical and technological factors. But, how does a class come to recognize which are the secondary rules that correspond to its interest? That some sort of process

* Ruling classes are usually aware of the fact that force alone cannot maintain a moral code in force, therein the importance attached to 'keeping appearances.' Ruling classes which justify their power by appealing to Providence, will have to act as believers. The king who resorts to the doctrine of the Divine Right of Kings, will have to go to Church and participate in all appropriate rituals, in the same way that Stalin had to make an appearance in Red Square during the celebration of the anniversary of the revolution. In Lima, Peru there is an extraordinary example of this fact every October, during the festivity of the 'Senor de los Milagros.' A procession takes place for three or four consecutive days, that passes several times by the presidential palace. Each time, the President is expected to come out to the balcony facing the main square and kneel before the 'Image of the Lord.' This ceremony resembles the ceremony of inauguration during which presidents and ministers are also expected to kneel before the 'Image of the Lord' and pledge loyalty to the constitution.

of recognition, that can be conscious or unconscious, is necessary, cannot be doubted, for without it the coherent exercise of power is impossible. We must therefore agree with L. Goldmann and claim that any definition of social class must include, apart from the standard socio-economic criteria, some reference to the notion of 'class consciousness.'²⁰ The ignorance of this fact, whether deliberate or not, leads towards socio-economic reductionism. Insofar as Marx maintains such a position, it is because he underestimates the role of consciousness in social behavior. It is not surprising, therefore, that he attempts to qualify his reductionist claims every time he is dealing with political events. He does so by postulating something like the doctrine of "relative autonomy." Initially Napoleon III might have been motivated to make himself Emperor by his wish to avoid paying his debts, but his wishes and, most importantly, his actions acquire, as soon as they start to have an effect on reality, a different meaning, a political meaning. Goldmann makes a similar point from a different angle. Law is fundamentally determined by the socio-economic forces operating in a society. But once the different laws have been enacted, their execution is entrusted to individuals who have a certain freedom of movement, who are called upon to use their judgment and who have preferences. This freedom of movement of the different individuals entrusted with carrying out a certain function is what guarantees, in Goldmann's eyes, the "relative autonomy of the phenomena of the superstructure."

These explanations tell only part of the story. The other part has to do with the need to generate tertiary rules to take care of the concrete demands created by the enactment of certain secondary rules and by the creation of new social mechanisms. Such mechanisms, once in operation, have the same effect as the introduction of new machinery, they themselves become sources of law, of tertiary regulations. Such is the origin of the professional codes of ethics, of the bureaucratic rules governing all actions of state employees, etc.

But this still leaves us in the dark as to the process of birth of secondary rules. We know that to a certain extent they must be an expression of the awareness by certain classes of their interests as classes. But does this mean that the legislative members of the ruling class know, in the strong sense of the word, exactly what their interests are? This is a highly implausible thesis. In part because he is aware of that, Goldmann proposes that we distinguish between the possible and the real consciousness of a given class, and between possible consciousness or world-view (*vision du monde*) and ideology. Ideology, as distinct from world-view is roughly equivalent to Mannheim's concept of "ideology," i.e., the set of beliefs promoted by a class in order to oppose change and preserve the status quo, ideologies are, thus, essentially conservative. Goldmann's notion of "possible consciousness" also resembles Mannheim's notion of "utopia." It is the 'project' that a class has for the arrangement or rearrangement

of a given society, its image of the ideal world. The real consciousness, on the other hand, is the image that a class has of itself at a given period. But these distinctions do not suffice to explain the process of formation of social consciousness, in fact, they presuppose it.

At this point one might feel tempted to postulate the existence of a sort of Durkheimian "collective consciousness," but this would not take us too far either, for, again, we would have to explain how this consciousness comes to be. In respect to that, we can agree with one more of Goldmann's remarks, to wit, that there is no such thing as a consciousness--above and independent from the individual consciousness ("conscience supra-individuelle"), but that whatever else class or collective consciousness might be, it must be the result of the interrelation of a number of individual consciousnesses.²² But this truth that Goldmann presents as a sort of axiom must, in turn, be explicated.

Now, in a way we have seen already how 'collective' consciousness is generated from a collection of individual consciousnesses. All the universal rules express the collective moral consciousness of a society and what gives them consistency is not some mysterious supra-individual entity, but their acceptance by each and everyone of the persons conforming a society, an acceptance which is constantly exhibited by the behavior of these persons. Furthermore, if all these persons accept the fundamental norms it is because each one of them

has on his own come to realize their necessary nature. That is to say, the acceptance and assimilation of fundamental norms is not the result of a 'collective' or 'global' act of rationality, but rather it is the result of countless individual primary acts of rationality. Similarly, the 'collective will' that asserts itself and seeks to enforce these norms is not a single sui generis and independent entity, but the sum of all the individual wills of the persons of a society.

But in some ways, explaining how the fundamental norms are generated was a relatively easy task, if compared with that of accounting for the generation of ideological secondary norms. Ex hypothesis, the first process has to be simple and also simple to represent. It consists merely in becoming aware of the prerequisites of social life and in deducing whatever consequences follow from them. No mistakes can be made, for human nature shows itself to the eyes of reason clear and neat. The generation of the ideological secondary rules cannot be an act of reason in the purest sense of the words, for what we perceive through them, as we have pointed out several times, is not human nature as such, but human nature with qualifications and limitations. If it is an act of reason that which allows us to deduce and assimilate ideological secondary rules, it must be an impure act of reason, an act of reason distorted by the influence of extraneous elements. Which, naturally, brings us to the next question, what are, and where do these elements originate?

One thing, at least, we can say about these elements at this point: insofar as they are not part of human nature, and insofar as they are ideological, and not determined either by geography, technology, or any other such elements, they are man-made, they are artificial. And, therefore, so must be, in essence, the mechanisms utilized for its propagation. Such mechanisms must be somehow or other incorporated into the function of instruction and must be distinguishable in principle from all those others necessary for the propagation of tertiary rules, in other words, ideological propaganda must be an integral part of the process of education in class societies.

But it could be argued that we have so far failed to distinguish clearly between ideological and nonideological secondary norms, for, qua secondary norms, both kinds are limitative and both need to be introduced by artificial means. This is perfectly true, and the distinction cannot be made in those terms. At the end, it seems to me, they can be distinguished primarily in relation to their source or origin. But note also that, although they can be and, usually, they are the sources of limitative rules, neither technology nor geography must necessarily be so, for an infinitely rich nature or a sufficiently advanced technology need not interfere with the uninhabited materialization of universal norms. Ideological or class related secondary norms, on the other hand, are necessarily limitative. And even if the sorts of geographical and technological conditions mentioned above were given, they

could not help become, seen through the perspective of ideological secondary rules, the sources of equally limitative rules. This seems to indicate that ideological secondary rules have a certain preeminence over all other kinds of secondary rules. What this means is that secondary rules not necessarily required by the geographical environment can nonetheless be introduced as tools of class domination.

Even if we grant all this, nevertheless, we cannot as yet claim to have provided an exhaustive answer to the question, how is it that class interests are recognized? In fact, we have made our task more difficult by claiming that the rule of a class over a given society can subsist even when neither the geographical nor the technological conditions of that society encourage or inspire that rule. For, having taken this position, we can no longer argue that the discovery of 'objective' conditions necessarily leads to the formation of a ruling class and to the establishment and the perpetuation of its rule over the rest of society. We seem to be assuming what some Marxists would call a 'voluntarist' position, a sort of 'conspiratorial' view of history according to which social classes form not merely or solely as the result of 'objective' conditions, but rather as the result of the conscious determination of a group of individuals to unite and to 'take over' the state or the organs of power of a society. As a matter of fact, I take this view to be partially, but only partially accurate, and I think that Goldman and all those that, like him, deny the existence of an independent 'collective consciousness' must also partially subscribe to it.

The sense in which this view is not totally accurate has been stressed by the Marxists and, in fact, by Marx himself. The proletariat develops as a class because there are large numbers of persons forced into the condition of wage laborers, it is awareness of the commonness of their condition that will result in the development of class consciousness, a process that, in the long run, is inevitable. This awareness will develop in the day-to-day struggle for survival, which will expose unity as the most efficient weapon at the disposal of the proletariat. But what most Marxists do not emphasize enough is the fact that this increase in awareness is not a unique event that affects all workers in the same way at the same time. In the final analysis it is a collection of individual events. The role of the socio-economic conditions is only passive. They simply prepare the stage, they open new possibilities, while at the same time closing others, but they do not force these possibilities upon people, they do not make history. This is, I suppose, the real meaning of the often quoted phrase "man is the agent of history," whose most interesting implication is that nothing is forced upon man by anything other than his own consciousness, as in the case of the universal moral norms, or by other men exercising power over him.

Social and historical processes are, in this restricted sense, the advancement of consciousness, the progressive recognition of possibilities of action by individuals and groups of

individuals and their attempts to materialize them. The existence of social conflicts in society is an indication of this, as is the fact that they always end up taking the form of a struggle for power. In the terms of the GTHSP, this struggle for power is nothing more than the struggle to impose certain ideological secondary rules. A dominant class materializes as such through and by the imposition of a definite set of ideological secondary rules over the whole of society. Its existence is thus wholly dependent on the continuous enforcement of these rules. This is why, going back to Goldman's distinctions, we can say that in order for a class to survive in a position of power, it is absolutely indispensable that it ensure that there be a certain correspondence between its possible and its real consciousness. The art of politics consists, precisely, in keeping alive this minimum of correspondence. This, in turn, requires that the possibilities and the conditions of social behavior be recognized and, when necessary and possible, skillfully manipulated.

Obviously, the possibilities that must be taken into account for political action include, in addition to those opened by technical, geographical and economic conditions, those determined by cultural factors and, most importantly, also the degree of awareness or class consciousness developed by the rival classes. Violence becomes a tool of politics when class consciousness is well-developed and the different classes are thus aware of their interests. Conditions in these

cases are similar to those underlying international wars. That international wars are more frequent and more likely to occur than civil wars and social revolutions is only in part due to the fact that in class societies there is a monopoly of power. In a more immediate and direct way, this fact is explainable in terms of the degree of awareness, in the population considered as a whole, of the nature of the secondary rules defining their nationality. Those rules contain no pretenses of universality, and are thus clearly exclusivist and discriminatory in character. Ideological secondary rules, on the other hand, owe their acceptance mainly to their appearance of universality, for once they are recognized as implements of class domination, they are likely to be disputed and rejected. Ideological rules, therefore, can be said to be 'ideological' in the two senses given to the word in Marxist literature: in the Lukacsean sense of onesidedness, and in the Marxian sense of deceitful or distorted representation of reality. In order to promote the interests of a class unilaterally, such rules have to adopt an appearance of universality, they have to pose as fundamentally necessary rules. This explains why the powers that be have always attempted to recruit philosophers as official apologists; they, after all, are supposed to be experts in the manipulation of necessity. Only boorish politicians despite philosophy, and, understandably, such appear mostly in times of revolutionary convulsion or when the period of decadence of a class is already well under way and force, rather than arguments, is needed to preserve the status quo.

d. Cultural, Psychological, Biological and Religious Factors and Morality

The brief and rather hasty inquiries of the three last sections have led us to conclude that although material elements such as geography and technology can be the source of secondary and tertiary rules, their effects upon moral legislation are usually mediated by the socio-economic and political conditions of society or, to be more specific, by the ideological secondary rules that fix and define those conditions. We have also concluded that the process that leads to the solidification of a set of arrangements in a given society depends greatly on the ability of the individuals conforming that society to recognize the possibilities of action open to them, and to coordinate efforts once the time has come to act in function of these possibilities.

But it is obvious that unless we think of an imaginary primordial society, we will have to take into account the fact that both the processes of recognition and the actions of individuals never occur in a void. They always take place against a cultural and historical background. This background is twofold in character, and can be seen either from the perspective of the society as a whole, or from the perspective of its impact on a single individual. For although we can conceive an individual who is enlightened to the extreme of being perfectly aware of all factors that have somehow or other affected his personal development, and the development of his society, and who can, consequently, 'deny' his past, as the

Existentialists would say, such is certainly not the norm and it is doubtful whether in real life we can find an exception that meets that ideal. We could provisionally affirm, therefore, that the relationship between the cultural environment and the behavior of persons is, in general, similar to that between the material factors and the behavior of persons. But, right away, we can see a major difference, for, clearly, we have to include under the same heading "cultural environment" the ideological secondary rules in force in each society, as well as the tertiary rules, i.e., elements that, by definition, exercise not only, as material factors do, a passive influence, but a direct and active one. This is undoubtedly something that we ought to keep in mind, since it seems to be a universal characteristic of cultural factors. There is, really, nothing mysterious about this, for insofar as cultural factors are indeed cultural, they are artificial or man-made, and, hence, its preservation depends directly upon an uninterrupted flow of human effort and dedication. We have already seen that some of the basic virtues and norms are meant to ensure that these efforts do not cease.

What we want to understand now is the way in which cultural factors, other than the norms themselves, affect the process of generation of these norms. One thing is self-evident, namely, that the amount of information concerning nature and technology accumulated, preserved and transmitted by a society has a definite role to play as an aid in the process

of recognition of possibilities of action. This role is usually perceived by the ruling classes, which explains their attempts to control the mechanisms of training and information. The political control of the educational processes can sometimes lead to its hierarchization, and, hence, to the transformation of the possession of information into a tool of power.

But even if we do not think of the political uses of information and knowledge, their effect on the shaping of tertiary rules is fairly obvious. There can be no code of medical ethics, before there is a science of medicine and before there are established techniques for the treatment of physical ailments.

The word 'culture,' though, means more than just 'stored information' concerning nature and technology. It refers also to the traditions and beliefs inherited from past generations, to the aspirations and frustrations that have become part of what is usually known as the 'national character' of a people, to artistic and other sorts of achievements and, last but not least, to religious beliefs and traditions. In relation to all these elements we have to ask, first, whether it is possible that they be the source of secondary rules.* In order to be able to answer this question we have to make several distinctions. To start we ought to differentiate

*We do not ask whether they can be the source of primary norms, because such a question is self-contradictory. Insofar as these cultural elements are cultural elements, their existence presupposes the existence of social life, and, by definition, of the conditions of possibility of social life.

between cultural elements with material components and cultural elements with no material components. Those like architecture, which have material components, can exercise an influence either as material components, as elements of the physical environment, or as 'spiritual' elements. This last possibility is the only one that is of interest in connection with our discussion of cultural factors. But even among spiritual objects we can make some distinctions, for certainly we do not behave in the same manner towards decorative pottery as we do towards the memory of a victory or a defeat of our nation in a war against its neighbors. The cultural works produced by the kinds of activities that are normally referred to as the 'fine arts' are not primarily meant to affect our behavior in regard to other persons, if at all, such objects are merely meant as 'symptoms' or 'symbols' of certain sorts of behavior in relation to other people. Other cultural facts such as historic records, tradition, etc., are immediately linked to our action, they are meant to inform our action, to direct it or to help direct it in one way or another. What is not clear is whether they are simple reinforcements of already existing social rules, or whether in some cases they can become the source and origin of new social rules.

In order to determine that, let us consider a simple example. There are some persons in a society who advocate its merger with the neighboring one. To defend themselves against the possible objections by their opponents, they have completed a careful study of all the socio-economical and

political consequences of the merger, and their study has shown not only that no harm will result from it, but that, on the contrary, it will be beneficial. The opponents concede all that, but argue that its cultural consequences would be disastrous, that the cultural identity of their nation would be lost. We are assuming, of course, that there is no compelling reason to materialize the merger, i.e., that both societies could in principle continue existing independently from each other. If such is the case, I do not see any reason a priori why the people in both societies could not decide against the merger because of their concerns to preserve their respective cultural identities. In fact, there are numerous examples in universal history of cases in which mutually convenient alliances of two societies against a third, more powerful one, have been rejected on the grounds of an old animosity. Colonialists of all sorts are always very aware of this fact and they try to exploit it systematically whenever they can. Many a tribe has opted for annihilation instead of consenting to the abandonment of an ancient tradition. As I said above, I am convinced that 'causal' or 'rational' explanations can be found to account for these types of conduct. What I have in mind are explanations of the sort that M. Harris²² has proposed to explain certain apparently "weird" behaviors such as cow-love, for instance. But what I do not see are the grounds for the conviction that Harris shares with most extreme 'materialists' that all behavior is explainable by means of a reduction to material causes

Extreme materialism neglects taking into account at least two important facts: 1. that humans do not have to opt invariably for life in society; the notion of 'collective' or 'social' suicide makes as much sense as the notion of 'individual' suicide, and 2. that once cultural institutions have been in existence for a period of time they become part of the environment, so to say, and have to be taken into account before any new legislation is introduced. This has to be done in the same way and for basically the same reasons that material conditions have to be taken into account. As a matter of fact, the case in favor of cultural objects might be stronger. Cultural objects appears to be dispensable only to those people who have a mystical conception of their nature. For, to the extent that cultural objects imply relations between persons, they are no less real, from the standpoint of social life, than material objects. In this respect, and although I disagree with many of his explanations of concrete facts, I do not consider Max Weber's thesis that the spirit of Protentantism contributed substantially to the development of capitalism in certain nations, as necessarily incorrect. There is no reason to deny that, in principle, cultural factors can operate as causes of material happenings. I am willing to grant, though, that given the nature of cultural objects and, concretely, the fact that they can often become the tools of political manipulation, the likelihood of this happening is rather small, especially when the processes in question involve major changes in the order of society. Cultural elements, then, are more

likely to have a retardatory or conservative influence than a revolutionary one, but this last alternative can by no means be excluded a priori.

And, certainly, the influence of cultural elements on the shaping of tertiary rules cannot be ignored. Once a technique is adopted by a society, for instance, there are, as we have seen, certain tertiary rules that that society will have to adopt at the same time. When Japan incorporated machine-technology into the process of production, the Japanese had to learn to produce in certain ways. But even in that case enough flexibility was left to allow them to impregnate the process of production with their own cultural traditions. On top and within the characteristic relationships of the mode of production demanded by machine-technology, they managed to infiltrate some of their particular traditions and values. In fact, at this point we can perhaps understand better the distinction made above between the 'crude' and the 'aethereal' conceptions of technology. The latter implies a whole attitude towards reality, and not only the automatic manipulation of tools. This attitude is determined by cultural as well as by political factors, and if the Japanese ever lose their own way of doing things, it will not be mainly because of the machines, but as a result of the desertion or abandonment of their traditions. But perhaps the influence of cultural factors on tertiary rules can best be seen if one observes the professional codes of conduct adopted by members of the same profession in

different countries. Physicians in India, China and the USA have nothing in common in respect to the way in which they relate to their patients. Some will whistle while performing operations that would make others cry.

It seems to me that when social sciences and people in general talk about 'customs,' what they have in mind are those patterns of behavior that result from the influence of cultural factors on social life. It should be clear now why customs are generally thought to have a retardatory effect on human social life. To the extent that they give rise to customs, cultural factors tend to promote the preservation of the status quo by way of reinforcing the rules already in existence. Customs are usually a source of credibility. But what is unacceptable is the claim that has been made more than once by jurists, social scientists and even philosophers, that customs as such can be the source of law. This assertion is based on a misunderstanding of either the nature of customs or the nature of law. In relation to the first, it adopts a much too broad perspective that encompasses under one concept both the idea of tertiary rules and the peculiarities or variations in the forms of their execution. In respect to the latter, i.e., to the notion of law, such view relies on the narrow conception that law is written or codified law. Now, if what is meant by postulating that custom is a source of law is, simply, that customs can color our way of life, we are confronted with a very trivial and irrelevant assertion. If, on the other hand, what is meant

is that 'custom' causes secondary and tertiary rules, then the fact is forgotten that custom, conceived as a series of patterns of behavior determined by culture, is in itself lawful conduct, conduct determined by law. Thus, customs, in the last sense, are nothing but tertiary or secondary rules peculiar to a given society. To escape confusion it is best to use the word 'custom' in the first of these two senses.

Our discussion in the preceding sections led us to the conclusion that the formation of social consciousness is the result of the concourse, of the flocking together of individual minds each of which has been taken to the same point through different paths. The question of what determines the evolution of an individual consciousness, although not directly relevant to the general theory of morality, is crucial for the understanding of the genesis and the workings of actual moral systems. From the perspective of ethical theory, this question and the one concerning the formation of the moral character of the individual, are one and the same. For, what is asked in both cases is, how does the individual acquire the virtues and vices that define his character and that determine his conduct? It might seem, at first, that these questions need not be raised by ethical theory, since, in a way, one can know a priori many of the character traits that a person's behavior must exhibit, to wit, all those necessary and contingent virtues that will make his life as a person possible in a given society. But this knowledge alone does not provide us with any understanding of the way in which the different social, cultural

and environmental forces of a society affect an individual and help shape his personality.

The study of these phenomena must be the task of at least three disciplines: sociology, psychology and biology. I speak of three disciplines with great reluctance more to avoid controversy, than to communicate what I really believe, for my belief is that all those disciplines occupied with the empirical study of man, currently distinguished from one another, can be brought together to form a single empirical science of man, a veritable anthropology. But these are different matters, and for now I will do better by accepting what is generally accepted.* Given the way these disciplines are presently structured, psychology can play an especially important part in helping us understand the evolution of moral personality. Traditionally, this discipline has approached the problem from innumerable different angles and in different degrees it has dealt with it in the theory of motivation, in the theory of personality, in child psychology, in clinical psychology, etc., etc. Not until the publication of Piaget's famous study²³ had there been a systematic attempt to deal specifically and

* I would like to point out, nonetheless, that the specialists of those and other 'human' sciences themselves, seem to be feeling the necessity to integrate their various disciplines as a condition to advance in the comprehension of human phenomena. The appearance of such disciplines as 'socio-biology,' 'social psychology,' socio-linguistics,' psycho-linguistics,' etc., and the attempts by Piaget and others to create interdisciplinary centers of research, can be seen as symptoms of this growing awareness.

in depth with the problem of the acquisition of morality. Since then, several other studies have been done, particularly important are the ones by Kohlberg mentioned before. Most psychologists deal with the issues concerning morality only tangentially, almost accidentally and, as far as I have been able to see, all of them have failed to recognize the real nature of morality as the ultimate foundation of the human spirit.

Apart from this major fault, the relative failure of psychology to shed more light on the evolutionary or developmental processes underlying the moral maturation of individuals, is due, I think, to two other factors: 1. the reductivistic tendency of much of psychological theory and, 2. the insistence in choosing as objects of study the individual in relative isolation from his social context. The Psychoanalytical School, which is one of the few schools of psychological thought to have emphasized the role of the social body in the formation of the human psyche, is, at the same time, one of the worst examples of reductionism, due to its attempts to identify a few all-powerful psychic motor forces.

But we need not and cannot (both for lack of time and information) concern ourselves in detail with the different tendencies of psychological thought. What we need to do is, with relative disregard for what has been done, try to determine what could be accomplished by the psychological study of morals. Let us first consider what cannot be done. The most important

thing that cannot be done, and that once in a while people have attempted to do, is deduce basic moral norms from the psychic constitution of the human mind. This is so, first, because we cannot even start talking about the human mind until we place it in the context of social life. The human mind, whatever is really human about it, is constituted together with social life. Of course, there are some psychologists who think they ought to concern themselves not with the mind, but rather with the brain. These tendencies, that are best characterized by calling them neo-phrenological schools, are becoming rather popular. Their major weakness, apart from the philosophical problems generated by their identification of mind and brain, is that they fail to take into account the artificial nature of social life. That is, even if there were such things as innate tendencies of the human brain, not all of them would or could necessarily become sources of law, in fact, the contrary might well be the case, for the realities of social life might require that some be repressed. The discovery of this fact is one of the most important contributions of Freud to psychology in general. He knew that the 'natural' and the social states of man are different and, in some cases, even opposed, and deduced from that the necessity to postulate the existence of mechanisms of control and adjustment to serve as a bridge between these two states. Even if we disagree with the details of his theory, we have to grant that his basic intuitions were fundamentally correct.

The same criticism just presented, can be made, *mutatis mutandis*, against the 'socio-biologists.'²⁴ O. Wilson's claim that 'ethics' ought to be handed over to the biologists, indicates that he has no idea of what ethics is all about.

What psychology, and to the extent that it is concerned with the same issues, biology can do is help explain the origin of what we can call the 'habits' of individuals, i.e., their real patterns of behavior. Only a better understanding of the habits of individuals will allow us to understand such important and basic social phenomena as the formation of social consciousness, the generation of relations of friendship and animosity among persons, the development of attachments and allegiances to ideals, etc. For although basic moral norms cannot be deduced from the psychic and biological characteristics of man, it is quite possible that some secondary rules and, certainly, many tertiary rules, can be traced down to these characteristics. The study of the relation between habits and customs should also be very profitable in this context.

To end this section, let us briefly turn our attention to the one aspect of human culture that has been the most influential in the history of the species. That aspect is religion. Any attempt on my part to discuss in detail the effects of religion on social life at this point, would be a sign of presumptuous idiocy. For no other topic has been more studied and analyzed, and nothing requires more effort, knowledge and seriousness than the study of religion, both because of its

multifaceted character and because of the nature of its object. Here, therefore, I will limit myself to making a few distinctions and, hopefully, a couple of clarificatory remarks.

There is hardly anything more characteristic of the way in which the human mind operates, than its tendency to walk to the end any and all the paths open to it. This tenacity, or, if you will, this obstinacy has been present in the way religion has been approached since the times of the Protestant Reformation. Once Luther had uncovered the political uses to which religion can be put, it was only a matter of waiting until the time arrived when God and religion were dismissed as 'merely' political. At this point, and coming from where I come from, I would be the last to deny that religion can become a tool of politics; but it seems to me that it would be an equally grave mistake, if not worse, not to attempt to explore the other visible facets of religious experience. After all, there is not a single example in the recorded history of mankind of a force more creative, of a power greater than religious convictions. Why this is so is something that needs to be explained and understood. Most of the greatest philosophers have felt this need, and so have the most serious sociologists from Durkheim and Weber to Berger. The former realized that the moral behavior of man is intimately connected to religious beliefs and that, hence, one cannot fully be explained if the other is disregarded. The latter knew that social behavior, insofar as it is perceived as meaningful by their agents, is also closely

related to religious convictions. Now we know that, at the end, moral and social behavior are one and the same thing, hence, we know that we cannot disregard the study of religion.

It seems to me that, in general, religious convictions can relate in three ways to morality: 1. by providing an ultimate goal to moral action and, hence, by providing it at the same time with an ultimate and transcendental justification; 2. by functioning, insofar as they are elements of the spiritual environment, as sources of secondary, ideological secondary and tertiary rules; and 3. by helping to reenforce the mechanisms of materialization of fundamental moral rules.

I am not going to occupy myself with 2. I would like to remark, simple, that the political function of religion ought to be studied in this context. But enough has been said already about these matters and, save for some new detail, nothing substantially different could be said at this point.

On the other hand, most religious writers who have been interested in the relationship between morals and religion, have predominantly identified 1. as the most important role of religion in regard to morals, this role we can baptize with the name of 'synthetic role or function of religion.' It is synthetic in the sense that it brings together the concepts of 'obligation,' 'aspiration' and 'meaningfulness,' insofar as it proposes God as the end of action, as an ideal.

In a very suggestive paper, M. Ginsberg has described with great accuracy the functions of ideals in moral behavior:

. . . Hence, as it seems to me, the notion of an 'ideal' is central in moral experience. For in the notion of an ideal there is a fusion of the conception of something that "would" satisfy us if attained and the conception of something that "should" or "ought" to satisfy us. In other words in moral experience appeal and constraint, pressure and aspiration are in various degrees intermingled. The ideal stands before us as something desirable though not necessarily desired, as something which makes demands on us and which may involve abnegation of desire but which in the end would be not repressive but liberative.²⁵

Assuming this definition of ideal, let us ask what the advantages are of proposing God as an ideal. In the first place, as most religious writers have always known, God renders our obligations absolute, ineluctable, thus eliminating all questions concerning the necessity of moral norms. But God is also the truest source of happiness, for he alone offers a guarantee of permanence. Hence, insofar as we are rational beings, insofar as we come to realize what we really need and want, we cannot but desire God, our unification with God. Only after this has been accomplished, and not before, will our purpose in life have been fulfilled, our existence will have attained a meaning.

We have seen that reason alone, in the form of the primordial act of rationality, is incapable of rendering our obligations absolutely necessary; we have also seen that reason alone is incapable of giving our lives an absolute, transcendental meaning or sense of purpose. In other words, reason is impotent when confronted with the question of suicide. Only God can affirm without qualifications the worth of life. Religious as well as non-religious thinkers have invariably

been aware of this fact. H. Kelsen, for instance, thinks that without the help of God there is no way of establishing reliable criteria to overcome moral relativism, and he opts for it. Two of the most brilliant religious writers of our time, Simone Weil and Paul Tillich agree with Kelsen's statement of the problem, but opt for God. S. Weil writes the following concerning the nature of our obligations towards other human beings:

This obligation is not based upon any de facto situation, not upon jurisprudence, custom, social structure, relative state of forces, historical heritage, or presumed historical orientation; for no de facto situation is able to create an obligation.

This obligation is an eternal one. It is coextensive with the eternal destiny of human beings. Only human beings have an eternal destiny. . .

This obligation is an unconditional one. If it is founded on something, that something, whatever it is, does not form part of our world. In our world it is not founded on anything at all. It is the one and the only obligation in connection with human affairs that is not subject to any condition.²⁶

The point could not be made clearer or more forcefully.

Nothing in the world can justify our obligations in an absolute manner, only God can do so.

For Tillich²⁷ the 'moral imperative' is valid for us only insofar as it corresponds to the will of God. But the will of God is not a force alien to us, it is our 'essential being.' In other words, there is a perfect correspondence, a perfect harmony between the will of God and our own nature. So, to the extent that the moral imperative represents the will of God, it helps unfold our essence, it leads us towards self-realization.

We can easily see, then, why religion has, so far, proven to be irreplaceable. Even the greatest of human ideals, as Schopenhauer knew all too well, are exhaustible. God is the only ideal that, when realized, will not let us down, so to speak.

On the other hand, 'c' represents an equally important function of religion. Here we are interested in religion as the realm of the sacred, of the holy. The notion of 'sacredness' or 'sanctity' plays an essential role in the life of primitive societies. The hypothesis that I want to propose here is that there is, in general, in primitive as well as in other societies, a correspondence between the holy and the necessary, between those persons, things and places endowed with the quality of sanctity, and their roles as privileged carriers or agents of the materialization of primary and secondary norms.²⁸

Conclusions

Although it is fairly obvious that the treatment of most of the issues dealt with in this dissertation has been brief and schematic, it is perhaps time to arbitrarily stop our speculations and attempt to summarize what has been said so far. In order to simplify the task, I will take one chapter after the other, indicating what each of them is supposed to have accomplished.

The first chapter is, in many ways, the one that has suffered the most due to the sketchy character of the paper. But the point of including a presentation of the skeleton of the GTHSP in this essay is not to develop such a theory at any length. Rather, all I have attempted to do is to introduce both the proper framework for the study of morality and certain terms, which, in my opinion, must constitute the basic vocabulary for any fruitful discourse on morality.

The claim that the GTHSP is the proper framework for the study of morality follows from the conception of morality as a condition of possibility of human social behavior. That is, morality is conceived in this context as a constituent of human social action and, as such, as a necessary element of it. The initial historical excursus shows that the path that leads towards the recognition of this fact was opened for the first time by Marx's conception of human activity as physical and productive activity, and by the more recent attempts to posit human needs, or the dynamic attributes of human nature, as its most basic and permanent moving force.

Such needs, we saw, can be conceived as a sort of 'hypokei-
menon' or substrate: they underlie human nature, but they do
not define it in its specificity, for human nature, insofar
as it is the subject matter of the GTHSP, is not biological
but juridical in character. This juridical form of being is
what we have called 'personhood,' which is nothing but human
existence in its concreteness, as it manifests itself in a
social setting, i.e., in the framework of a complex net of
inter-personal relations. What distinguishes human social
existence from other sorts of social existence is precisely
its juridical character, that is, the fact that it is sustained
by a skeleton of norms or rules which, in turn, are not natural
or given, but have to be produced and continuously enforced
by their own subjects, who become persons in the process of
doing so. On the other hand, the personification of the sub-
jects of these norms is possible because they are multirela-
tional entities, i.e., entities which, not being programmed
to establish among themselves any particular sort of relations,
can and have to choose the types of relations they want to
establish among themselves.

To say that humans 'choose' the way they want to live
does not imply the idea of arbitrary selection. What this
means is, merely, that, through an inaugural or primary act of
rationality, they recognize the need to subject their behavior
vis-a-vis other humans to the norms directly deriving from the
dynamic qualities of human nature in order to establish a

working society. The particular forms in which these norms can be instantiated and thus, the particular characters of the societies that can be created are not predetermined.

When materialized through the behavior of persons, these norms define sets of basic or fundamental social institutions, the ultimate task of which is to guarantee the survival of the individual persons as such and of the society as a whole. The realm marked by these institutions is what we have called the 'social space.'

Now, although the list of the defining, dynamic characteristics of human nature can be obtained only rhapsodically, given the contingent nature of man's biological constitution, the fundamental social functions can be deduced, i.e., shown to be necessary and universal. To do so, one has to exhibit them as conditions of possibility of social life, one has to show that they fulfill the prerequisites for human social existence determined by the set of dynamic qualities or needs. In this manner six fundamental functions can be deduced, including that of conductivization or morality which encompasses all the others and gives them their typical human character.

This last function is the topic of study of the second chapter. First some preliminary issues are resolved that are both historically and intrinsically important. The first such issue is the relation between morality and law. The thesis I want to defend in this respect is that morality and law do not represent two different realms of social life, that they

do not seek to satisfy different kinds of social needs, but that, to the extent that law appears as different from morality or, even, as opposed to it, it is a symptom or sign of the accidental need to enforce morality by force in certain types of societies. In other words, at a fundamental level, the bifurcation between law and morality does not exhibit a basic trait of morality in general, but merely a trait of certain societies. At a more superficial level, namely, at the level at which law appears as a technical or administrative regulation, it is nothing more than a tertiary rule, a norm instrumental in the materialization of some institution or other. Such rules or laws help accommodate the demands of morality to those of reality. Now, the claim that law, although not identical with morality can nevertheless have 'moral implications' is to be rejected in the light of what has been said before. For such claim not only implies that there is a fundamental distinction between law and morality, but, furthermore, forgets that morality is not a mere appendix of personhood but rather its essential constituent. All acts of persons are moral acts, since personhood is a quality of humans which attaches itself to them only insofar as they act morally, i.e., according to universal and necessary rules, and to rules deriving from them.

The next preliminary issue is the one concerning the passage from 'is' to 'ought.' As I see it, the problems being debated in this connection are that of explicating the real and possible relations between nature and morality, and

that of determining the nature and the sources of moral obligation. In regard to the first question, I find myself in agreement with Hume, Kant and other philosophers who claim that no morally binding rule can be deduced by means of an examination of nature, although, certainly, many an instrumental or hypothetical rule can so be derived. In other words, in spite of the fact that 'practical necessitation,' to use von Wright's term, is determined by nature and its circumstances, no moral necessitation is directly determined by them. The notion of 'obligation' can legitimately be introduced in the course of moral discourse by reference to that of 'personhood.' Persons are, then, both the source and the object of obligation. That is, the only fact the recognition of which generates a moral obligation is personhood. Once the quality of personhood has been detected by a person in some given entity, this person has automatically an obligation to relate to that entity according to the fundamental rules. In other words, moral obligation is nothing but the requirement, implicit in the notion of person, that persons preserve their personhood by contributing to the preservation of the personhood of other persons. Obligation, then, denotes a kind of internal or, better, umbilical connection between persons, which makes them all dependent on one another.

But once these preliminary issues have been settled, it is indispensable to deduce the fundamental norms which regulate the relations between persons. The deduction of these

norms proceeds much in the same way as the deduction of the fundamental social functions, which it presupposes. The deduction of the fundamental social functions does not exhibit them in their specificity; it merely exposes their role in the satisfaction of one or more of the prerequisites for human social life. The deduction of the fundamental norms, on the other hand, if successful, will exhibit these functions in their concrete or determinate form, since, by definition, the fundamental norms are the instruments for the materialization of the basic social functions. The strategy for the deduction of the fundamental norms therefore must be to present each of them as an indispensable vehicle for the materialization of at least one of the fundamental social functions. By following this procedure 24 norms can be deduced, including four corresponding to the function of conductivization or morality proper. These four norms not only are the most general, but apart from securing the coherent integration of all other norms into a workable system, they also provide human social behavior with its specific character.

The last part of this chapter shows how virtues relate to each of these norms. Virtues are in fact nothing more than the instantiation of fundamental norms in each person's character. To predicate a virtue of a person is tantamount to attributing him certain disposition to act according to one or more of the fundamental norms. The table of basic virtues, therefore, and that of the fundamental norms correspond to each other.

The tasks commended to the third chapter are that of explaining the possibility of real moral codes and their process of generation, and that of accounting for the mechanisms involved in their generation. The first task requires the dissolution of one of the most serious aporias of traditional moral philosophy, namely, that of explaining how it is possible to assert at the same time that there are certain universal moral norms and that the moral code of each society is different from that of any other society in a non-trivial manner. The appearance that this double assertion involves a contradiction has led philosophical speculation in two opposing directions. Some philosophers, like Kant and Scheler, for instance, have sought to escape the aporia by affirming universality at the expense of multiplicity and, thus, by making the validity of moral norms be absolutely independent from the circumstances in which individual men and societies exist. Other philosophers, and most notably those generally known as Relativists, have emphasized multiplicity at the expense of universality, hence denying the existence of necessary and universal moral norms. Approached from the perspective of the GTHSP, this aporia appears as the result of a failure to appreciate the kinds of limitations imposed upon universal moral norms in real societies. All such limitations affect only the range of applicability, the extension of the fundamental norms, never their character. Fundamental norms are conditions of possibility of social life. This means that no human society

is possible in which these norms are not followed. But there is nothing in the concept of 'condition of possibility' that entails the idea that fundamental norms ought to be applied to all entities potentially capable of becoming persons, i.e., social agents. Although, of course, there is nothing contradictory in the idea that they ought to apply to all such entities. As a matter of fact, a good case could perhaps be made for the claim that a force pushing in this direction underlies much of human history. Now, the norms that set the limits for the range of applicability of the universal moral norms are those that we have called ideological secondary rules. These rules are necessary only in respect to a given social order, but not universally.

There is clearly a sense in which universal and necessary norms apply to all persons or, at least, to most persons, for, today, most human beings are persons in some society or other. But this claim is highly misleading, since, before there is a single, equalitarian society constituted by all living human beings, persons, to the extent that their personhood is qualified by secondary rules, will be different in different societies. Actually it is only recently that persons living in different societies have ceased to regard each other as absolutely non-persons. The incipient development of International Law bears witness to this fact, brutally emphasized every time an international war breaks out.

Now, the inquiries required for the solution of the second task show that not all secondary rules and, certainly,

not all tertiary or instrumental rules are totally arbitrary or capricious. Some of them are conditioned by a diverse set of external factors both natural and cultural, such as geography, population density, religious beliefs, etc. All or any of these factors can incline persons to be more or less flexible in the way they constitute their societies. They can even determine the constitution of some of their institutions by imposing technical demands upon them. But, what none of these factors can do is deprive man of his liberum arbitrium, of his ability to freely mark the course of his life, for the faculty that enables him to do so is inherent in his nature.

This is, then, summarily put, what has been done in this paper. Many questions remain unanswered and undoubtedly there are many problems with the argumentation. But one thing, at least, I am fully convinced is true: that morality is the most human of affairs and that it can be understood in the framework of a general theory of human nature. There is no need to go beyond man to understand his behavior, as there is no need to go beyond nature to understand its mechanisms. In the end, though, no theory of human praxis is acceptable which does not lead to the conclusion that all human wisdom can essentially be summarized by the old motto: "Suum cuique tribue, Neminem laede, Imo omnes, quantum potes, juva." This paper has some worth only to the extent that it provides justification and support for it.

CHAPTER III NOTES

¹For a history of the Providentialist thesis in economic thought cf. Jacob Viner, The Role of Providence in the Social Order (Philadelphia: American Philosophical Society, 1972).

²Cf. Airs, Waters, Places in The Medical Works of Hippocrates (Oxford: Blackwell, 1950) pp. 90-111.

³Ibn Khaldum, The Muqaddimah, N. J. Dawood (ed.), (Princeton, N.J.: Princeton University Press, 1974).

⁴Montesquieu, The Spirit of the Laws (New York: Hafner Publishing Company, 1949).

⁵Cf. his Fundamental Problems of Marxism (London: Lawrence and Wishart, 1969).

⁶Ibid., pp. 48-49.

⁷Ibid., pp. 56-57.

⁸Small is Beautiful. Economics as if People Mattered (New York: Harper and Row, 1975).

⁹O. Spengler, Man and Technics. A Contribution to the Philosophy of Life (New York: Alfred A. Knopf, 1932) p. 3.

¹⁰M. McLuhan, Understanding Media, The Extensions of Man (New York: McGraw-Hill, 1964) pp. 7-9.

¹¹Ibid., p. 177.

¹²Ibid., p. 12.

¹³Franz Borkenau, "Zur Soziologie des mechanistischen Weltbildes," Zeitschrift fuer Sozialforschung, Vol. 1 (1932) pp. 311-335.

¹⁴H. Pirenne, Histoire économique et sociale du Moyen Âge (Paris: PUF., 1969).

¹⁵ Lynn White, Medieval Technology and Social Change (London: Oxford University Press, 1976).

¹⁶ CF. particularly Die Frage nach der Technik, in Vortraege und Aufsaeetze (Tuebingen: Verlag Guenther Neske, 1954) pp. 13-45.

¹⁷ Josué de Castro, The Geography of Hunger (Boston: Little, Brown and Company, 1952) p. 15.

¹⁸ Adolf A. Berle, Jr., Power without Property (New York: Harcourt, Brace and World, 1959).

¹⁹ I will not attempt here a detailed criticism of the efforts undertaken by self-proclaimed Marxists to deal with the subject of morality. I simply want to make a couple of general remarks. First a bibliographical remark. So far, I have found three books that are quite valuable both to help one put the discussion of Marxist ethics in the proper perspective and to get an overview of its historical development. These books are: M. Rubel, Pages choisies de Karl Marx pour une éthique socialiste (Paris: Librairie Marcel Riviere, 1948), particularly illuminating is Rubel's introduction, "Introduction a l'éthique marxienne"; E. Kamenka, Marxism and Ethics (London: MacMillan, 1969), especial attention should be paid to Kamenka's treatment of Marx's own moral ideas. With remarkable elegance and clarity, Kamenka shows that communism is an ethical ideal for Marx. The third book provides a clear and comprehensive exposition of the evolution of ethical theory in communist circles: R. DeGeorge, Soviet Ethics and Morality (Ann Arbor: The University of Michigan Press, 1969).

Marxists works on ethics can be divided into two classes. The first class is represented by books such as K. Kautsky's Ethik und materialistische Geschichtsauffassung (Stuttgart: Verlag von J. H. Dietz, 1906), where the emphasis is on actually describing the morality of a class and on showing how it works as an organ of political power. Although perhaps they are not Marxist in the strict sense of the word, M. Ossowska's studies on the 'Nobility' and the 'Bourgeois' ethos would correspond to this class. And, if we stretched our imagination a little bit, H. Marcuse's Eros and Civilization and The One-Dimensional Man could be included under this heading. Potentially, this is the most fruitful line of analysis. The second class of Marxist books on morality includes L. Trotsky's Their Morals and Ours (New York, Pioneer Press: 1942) and M. Horkheimer's article "Materialismus and Moral," Zeitschrift fuer Sozialforschung. Jahrgang II (1933) pp. 161-195.

Lenin's numerous but rather marginal comments on morality can, I suppose, also be counted as part of this last group. My feeling is that all these works should not be taken too seriously, not more seriously than any other sort of vulgar Relativism. All these authors commit a fallacy of overreaction. Interested in denouncing the hypocritical behavior of those who oppose revolutionary action in the name of 'eternal moral principles,' they end up proclaiming all morality as relativistic and dispensable. This not only engages them in a contradiction, for as Kamenka points out, "such ethical relativism, . . . , seems at best difficult to reconcile with belief in the objective moral superiority of socialism, in the scientific basis (i.e., justification) of proletarian or Communist morality, or in moral progress (a conception that seems to imply underlying or meta-criteria logically independent of the actual historical moralities judged in terms of these criteria)" Kamenka, pp. 44-45. This contradiction becomes particularly visible in Lenin and Trotsky, who argue, at the same time, that good is to be defined each time as whatever is good or convenient for the party under given circumstances, and that there are certain objective moral standards that prove the superiority of communism, thus implying that there are independent, universal criteria for the determination of moral goodness.

De George's book describes some of the attempts of Soviet writers to deal with these problems and, mainly, to escape the charge of relativism. De George points out two recent 'additions' to Marxist ethical theory that are meant to accomplish precisely that: one, the thesis that morality is 'relatively independent,' and, two, the recognition that there are certain moral rules common to all societies, that will constitute the basis for a universal morality once the communist society has been realized. As far as I can tell from De George's exposition, these common rules are not thought of as conditions of possibility and are thus conceived more as general than as truly universal norms.

²⁰ Lenin, State and Revolution in Essential Works of Marxism (New York: Bantam Books, 1971) pp. 102-198.

²¹ Lucien Goldmann, Sciences humaines et philosophie (Paris: Presses Universitaires de France, 1952) Goldmann suggests the following strategy for the definition of the notion of 'social class': "Pour terminer ce paragraphe, ajoutons seulement une remarque: Nous croyons que la classe sociale se définit par: a) la fonction dans la production; b) Les relations avec les membres de autres classes, et c) La conscience possible qui est une vision du monde." (pp. 111-112) see also pp. 101-103.

²²L. Goldmann,

"Pour le materialism dialectique, il n'y a pas de conscience supra-individuelle. La conscience collective, conscience de classe par exemple, n'est que l'ensemble des consciences individuelles et de leurs tendances telles qu'elles résultent de l'influence mutuelle des hommes les unes sur les autres et de leurs actions sur la nature, p. 130.

²³M. Harris, Cows, Pigs, Wars and Witches; the Riddles of Culture (New York: Random House, 1974).

²⁴J. Piaget, The Moral Judgement of the Child (Glencoe, Ill.: The Free Press, 1948).

²⁵For an exposition of the main theses of the 'Sociobiologists' cf. David P. Barash, Sociobiology and Behavior (New York, Elsevier, 1977) A much more measured treatment of most of the same issues can be found in Paul Chauchard's booklet Sociétés animales, société humaine (Paris: Presses Universitaires de France, 1970).

²⁶Morris Ginsberg, "Basic Needs and Moral Ideals," Proceedings of the Aristotelian Society, Vol. XLIX (1948-49) pp. 195-214.

²⁷S. Weil, The Need for Roots (New York: Harper and Row, 1971) p. 5.

²⁸Cf. P. Tillich, Das Religioese Fundament des Moralischen Handelns in Gesammelte Werke, Band III (Stuttgart: Evangelisches Verlagswerk, 1959) particularly pp. 15-83.

²⁹W. Brede Kristensen, The Meaning of Religion, Lectures in the Phenomenology of Religion. Trans. John B. Carman. (The Hague: Martinus Nijhoff, 1971).

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