



ETHICS

PROBLEMS AND PRINCIPLES

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MORAL PROBLEMS AND PUZZLES

Consider, to begin, the case of Bystander 2.¹ A trolley is hurtling down the tracks. There is an "innocent" person on the track ahead of the trolley, and he will be killed if the trolley continues going straight ahead. There is a spur of track leading to the right. Unfortunately, there are five "innocent" persons on that spur of track. The brakes of the trolley have failed, and you are strolling by the track. You see that you could throw a switch that would cause the trolley to go onto the right spur. You are an "innocent bystander," in the sense that you are not an employee of the railroad, or a member of any public safety agency. You can throw the switch, saving the one person but causing the five to die, or you can do nothing, allowing the one to die. Unfortunately, the only way in which you can save the one person is by causing the five to die. What should you do?

The persons on the tracks have done nothing morally wrong for which they deserve to die, nor have they forfeited their right to life. Moreover—and this is a general assumption in describing all of these puzzle cases—no "special" facts distinguish the persons involved in the cases. For instance, none of the six persons involved in Bystander 2 is a great scientist about to find a cure for cancer, a great musician, or any other type of gifted individual. Furthermore, you have not made special arrangements with any of them.²

It seems that it would be at least permissible for you to omit the option of shunting the train to the right and thus allow it to continue going straight ahead. Perhaps it is also obligatory to do this, but it seems at least reasonable that you may allow the trolley to continue. You fail to save the one, but you preserve the lives of the five.

Consider a second case, Transplant.³ You are a great surgeon—a remarkably great surgeon. There are five persons in the hospital, each of whom needs an organ in order to survive. It just so happens that an innocent visitor has arrived in the hospital, and you know that he is tissue-compatible with all the people who need organs, and that you could cut him up and distribute his parts among the five who need them. Would it be permissible for you to perform the operation without his consent?

Surely, it is uncontroversial that you may not proceed. It is impermissible for you to perform the operation, and it seems that this is so even if you could conceal what you had done (for example, if you knew that the visitor is a hermit, and no one would find out that he had been killed). *Why* is it permissible for you to save the five in Bystander 2, but not in Transplant? In both cases the numbers are the same: you can either act so that one lives or act so that five live. *Why* exactly may you act so that the five live in the first case, but not in the second? It is interesting to note here that we are not interested only in the outcomes or consequences of our behavior, but we are also deeply interested in how they come about. We are interested in the paths that lead to the outcomes as well as the outcomes themselves.

Consider a third case, Drug. You own a bottle of medicine. Five persons are dying, and each needs one-fifth of the medicine in order to survive. Another person is dying, but he needs all of the medicine in order to survive. What should you do?

Given that you have not promised the medicine to the one person, it is at least permissible for you to give the medicine to the five. Perhaps it is also obligatory to give the medicine to the five (supposing that you do not need it), but it is evidently at least permissible to do so.⁴

Consider now a fourth case, *Fat Man*.⁵ You are standing on a bridge, watching a trolley hurtling down the tracks below you toward five innocent persons. The brakes have failed, and the only way you can stop the train is to impede its progress by throwing a heavy object in its path. There is a fat man standing on the bridge next to you, and you could push him over the railing and onto the tracks below. If you do, the fat man will die, but the five will be saved. (You can imagine that you wouldn't need to push the fat man to get him to topple. Perhaps he is peering over the handrailing watching the lamentable scenario below, and you can simply wobble the handrail . . .)

What should you do? It may seem, upon first thinking about the case, that it is quite clear that you may not push the fat man over the railing. This conclusion, however, raises the question, why is it permissible to save the five in *Drug* but not in *Fat Man*? Obviously, this is parallel to the question about *Bystander 2* and *Transplant*. What is it in the pairs of cases, *Bystander 2* and *Drug*, on the one hand, and the pair of *Transplant* and *Fat Man*, on the other, that makes these cases similar yet crucially different from each other?

Suppose now that you have a boat. Alarmingly, there are six persons drowning, but in different places. You can save five, who are in the same area, or you can save one, who is in a different area. You cannot save all six drowning swimmers. As in *Bystander 2* and *Drug*, it seems at least permissible to save the five in *Boat*.

Next, consider *Shark*. You see a large shark heading toward five swimmers. It is evident to you that the swimmers are in jeopardy, especially since you have just seen the movie "Jaws"! You are on a pier, where there is an innocent fisherman fishing. You happen to have a gun, and while you cannot shoot the shark, you could shoot the fisherman and cause him to fall into the path of the shark.⁶ The shark would then eat the fisherman, thus allowing the five swimmers to escape.

What to do? As in *Transplant* and *Fat Man*, it does not seem permissible here to save the five. Rather, it seems evident that you may not shoot the innocent fisherman even if, by doing so, you could save the five innocent persons.

The above puzzle cases illustrate the fact that we care not just about outcomes or consequences, but also about the means by which we arrive at these end-states. Our intuitions are thus "path-dependent," or "path-sensitive." What principles can explain this path-sensitivity? What general principles can explain the asymmetries in our intuitive judgments about the puzzle cases? Why do we equate *Bystander 2*, *Drug*, and *Boat*, on the one hand, and *Transplant*, *Fat Man*, and *Shark*, on the other, and why do we distinguish morally between the first three cases and the second three?

Rights Strategy. It is often tempting to appeal to the idea of rights (moral rights) in trying to resolve moral problems. When you hear the description of *Transplant*, you might be tempted to say that it is wrong to kill the innocent visitor and use his organs

to save the five dying patients because you would be violating some right of his. The claim would be that it is unethical to violate such a right, even in order to save many people's lives.

Which right is it that is (allegedly) being violated? Suppose one says, as surely it is plausible to say, that the right in question is the right to retain one's bodily parts. Presumably, each of us has strong moral rights to retain all of our bodily parts; perhaps these rights are analogous to property rights. In any case, it is reasonable to say that it is wrong to kill the one individual in Transplant because you would be violating his rights to retain his bodily organs; you would be taking things to which a person has rights and giving them to others who have no such rights to those things.

Upon reflection, however, this explanation of the wrongness of killing the one individual in Transplant seems inadequate. To better understand this inadequacy, consider another case, Scan.⁷ Again, there are five persons dying. This time they are dying of a disease. Suppose that there is a scanning device that can scan the brain of an individual, and if the individual has certain neurological properties, can generate information that can be used to save the five dying persons. Imagine further that there is an innocent visitor in the hospital who is neurologically suited to the scan. Unfortunately, if you (a great neurologist) do the scan, you kill this innocent person, for the scanning method is lethal. You can save the five if you do the scan, but you will kill the one if you do so, and this is the only way in which you could save the five.

It seems that Transplant and Scan are morally on the same par. If it is morally unacceptable to save the five in Transplant, it is also morally unacceptable to save the five in Scan. However, the explanation suggested above of the wrongness of saving the five in Transplant is clearly irrelevant to Scan: there is no issue of property rights to one's bodily parts or the redistribution of something from someone with a stronger claim (right) to it to others with a weaker—or no—claim (right) to it. Thus, the explanation above developed to explain the wrongness of saving the five in Transplant is unsatisfying insofar as it is not possible to *generalize* it appropriately.

Note that this situation is similar to Fat Man. Here, it was thought to be impermissible to shove the fat man in front of the train, thus saving the five. Unlike Scan, however, there is no issue of rights over bodily parts in Fat Man. One is not proposing to take things to which an individual has rights and give them to others who have no such rights. Thus, the purported explanation in terms of rights over one's bodily organs does not generalize suitably to all of the relevant cases.

Perhaps a rights theorist will fall back on the claim that in Transplant you would be violating an innocent person's right to life. It might be claimed that the pertinent right is the right to life, rather than rights to particular bodily organs. The claim here would be that it is in general wrong to behave so that one individual's right to life is violated, even if by acting so that the right is violated you could save five innocent persons' lives.

Notice, however, that in Bystander 2 you would be behaving so that one innocent person's right to life is violated if you were to refrain from shunting the train to the right. Nevertheless, it is not impermissible to do so. In Drug (if you were to distribute the drug to save the five instead of giving all of it to save the one patient) and Boat (if you were to rescue the five drowning swimmers instead of the lone

swimmer), you would also be behaving so that one person's right to life is violated in order to save five. Again, we do not feel that it is impermissible to behave in this way. Thus, we do not see how any simple, straightforward appeal to the right to life can help resolve the moral puzzles presented above.

Some might say, however, that there is a crucial distinction between *violating* a right and merely *not guaranteeing* that an individual have the thing to which he has a right. So, for example, in Bystander 2 you would (allegedly) not violate the one person's right to life by failing to shunt the train away from him; you would merely fail to guarantee that the individual's life be preserved. Taking this approach, one cannot passively violate a right—one cannot violate a right by failing to act (or by "doing nothing"). There would thus be an important distinction between actively violating a right and passively comporting oneself so that a right is allowed to be violated. This approach raises the issue of whether we can appeal to the distinction between action and omission in attempting to generate a solution to our puzzle.

Actions and Omissions. Some think that there is a critical moral difference between actively bringing about an outcome and passively bringing it about, i.e., allowing it to happen. They think that the difference between action and omission in itself is morally significant. Employing the idea that there is such a difference, one might frame principles that explain our moral intuitions in some of the puzzle cases.

If it is wrong, in general, to actively bring about a death (even if by doing so one can prevent five deaths from occurring), then it would be wrong in Transplant to kill the innocent visitor to the hospital, even if by doing so you could use his organs to save five dying patients. Furthermore, a proponent of the moral importance of the distinction between action and omission might say that it would be permissible to allow the one to die in Bystander 2. In Bystander 2 you merely allow the one to die, whereas in Transplant you must kill the one in order to save the five. Similar considerations apply to the other cases. In Fat Man (if you push the fat man in front of the trolley) and Shark (if you shoot the fisherman so that he falls in front of the shark), you would actively bring about the death of the one in order to save the five, whereas in Drug (if you use the drug to save five patients instead of one) and Boat (if you rescue five swimmers instead of one), you would simply refrain from saving the one and thereby save the five.

It is not at all evident, however, that the principle that embodies this distinction between action and omission is suitably generalizable. Suppose that you (for whatever reason) wish that your husband were dead. He is about to have his morning coffee, and you give him a bit of cleaning fluid, claiming that it is cream. He puts it in his coffee and dies. In Cleaning Fluid 1 you actively bring about the death of your husband.

Suppose that in Cleaning Fluid 2 you have exactly the same (regrettable) motivation. In this case the maid has left some cleaning fluid on the kitchen table, and your husband is about to put it into his coffee (thinking that it is cream). You see that he is about to do so, and you can easily warn him. You refrain. He puts the cleaning fluid in his coffee, drinks it, and dies. (We are supposing here that the man uses rather a lot of cream.)

The only difference between the two cases is the difference between action and omission—everything else is held constant. Yet there does not seem to be any moral difference between the two cases. The act of killing your husband is equally wrong in both cases. Thus, the difference between action and omission cannot in itself be morally relevant. These two cases are exactly the same factually except for the difference between action and omission, and they are the same morally. Thus, if there are two cases in which there is a difference between action and omission accompanied by a moral difference, the moral difference must come either from some factor other than the difference between action and omission, or from this factor plus some additional factor. This is because if the difference between action and omission is in itself morally significant, then it would be impossible to have the original pair of cases in which there is only a difference between action and omission and no moral difference.⁸

To further emphasize the point, consider Bystander 1. Bystander 1 is just like Bystander 2, except that in Bystander 1 the five persons are on the track straight ahead, and the one person is on the spur of track to the right. (This is Judith Jarvis Thomson's version of "Bystander.") It seems to us that Bystander 2 and Bystander 1 are morally on the same par. It is permissible to behave so that the five are saved in Bystander 2 if and only if it is permissible to behave so that the five are saved in Bystander 1. How can it make a decisive moral difference in these cases whether or not you push a button (which shunts the train to the right)? If these two cases are morally on a par, then there is further reason to think that the difference between action and omission is not in itself always morally significant.

The Doctrine of Double Effect. In Transplant, the death of the innocent visitor to the hospital is in some fairly clear intuitive sense a means to saving the five. You would be using the innocent person as a means to achieving your (admittedly worthwhile) goal. On the other hand, in a case like Bystander 2 (or for that matter, Bystander 1), the death of the one is in no way a means to saving the five. For example, in Bystander 1, if you press a button that causes the train to go to the right, pushing the button (and thereby reconfiguring the tracks) would be your means to saving the five, and the death of the one would be a mere side-effect of what you did. Similarly, in Fat Man and Shark, the death of the one innocent person would be (in some clear intuitive sense) your means to saving the five, whereas in Drug and Boat the death of the innocent individuals would be mere side-effects (and not means).

The Doctrine of Double Effect distinguishes between intended *ends* and necessary *means*, on the one hand, and unintended but foreseen *side-effects* on the other. The doctrine exploits this distinction to claim that whereas it is sometimes permissible to bring about a bad result as a merely foreseen side-effect of what you do, it is in general not permissible to bring about such an effect as an intended end or a necessary means to some intended end. In particular, the doctrine claims that it is sometimes permissible to kill an innocent person as a foreseen (but unintended) side-effect of something you do, but it is in general impermissible to kill an innocent person as an intended end or a necessary means of an intended end. Thus, the doctrine would rule out killing the one in Transplant, Fat Man, and Shark, while leaving it a permissible option to save the five in Bystander 1, Drug, and Boat.

How is it possible to distinguish exactly what constitutes an intended means or a mere side-effect? This is a very difficult project. The difference is that when one intends something as a means to an end-result, then it is appropriate to change one's behavior under certain hypothetical circumstances to bring about the same intended end-result. The same alterations in behavior would not be appropriate if the thing in question were merely foreseen rather than intended as a means. For example, suppose that in *Shark*, when you shoot the fisherman, he falls away from the path of the shark and lands on a rock. It would then be appropriate to shoot him again, thus causing him to land in the water in the path of the shark (insofar as this is possible). In contrast, if in *Boat* the one swimmer is able to make it to a rock and thus avoid drowning, it would be inappropriate (and indeed completely gratuitous) to push him off the rock or otherwise cause him to drown. When one intends a bad result, one's behavior must be adjusted to achieve this result; one's behavior "tracks" or is guided by badness. This tracking of badness or "attraction" to badness may seem particularly morally objectionable.

Consider the following case, *Hospital*.⁹ There are five innocent persons in a hospital. They all need some medication in order to live. Unfortunately, the only way to save them is to manufacture a drug right in the hospital. Suppose that the process of manufacturing the drug releases (as a side-effect) a lethal gas that would kill one innocent person in another room in the hospital.

The Doctrine of Double Effect implies that it would not be permissible to cut up an innocent visitor to save the five dying patients in *Transplant*, but it would be permissible to save the five in *Hospital*. After all, in *Transplant*, the death of the one would be an intended means of saving the five, while in *Hospital*, the death of the one would be a mere side-effect of what one does in order to save the five. This discrimination between the two cases seems implausible, however: *Transplant* and *Hospital* seem to be morally equivalent (although plainly factually different in certain respects).¹⁰ To the extent that the doctrine appears to introduce a differentiation not licensed by common sense, it is to that extent implausible. Again, this principle does not appear to generalize in an appropriate fashion.

Suppose, also, that in *Bystander 3*, the right spur of track loops around and connects with the main track. Thus, if the one person (imagine that he is large enough to stop the train) were not on the track to the right, the train would continue around and eventually run over the five; but someone is on the track. Think of *Bystander 3* as in all other respects relevantly similar to *Bystander 1*. Now it would seem that the Doctrine of Double Effect implies that although it would be permissible to shunt the train to the right and thereby save the five in *Bystander 1*, it would not be permissible to do so in *Bystander 3*. This is because the death of the one in *Bystander 1* would be a mere side-effect of what one does in order to save the five, but the probable death of the one in *Bystander 3* would be a necessary means of saving the five. It is implausible to say that these two cases should be differentiated morally. Certainly there is a factual difference between the two cases—a bit of track—but this factual difference should not make a moral difference. Again, the Doctrine of Double Effect appears to introduce a normative differentiation that is not compatible with common sense.¹¹

Let us go back to the alleged justification (or normative motivation) for the Doctrine of Double Effect. It was claimed that it is particularly morally repugnant to be "guided" or "tugged" by evil—to adjust one's behavior to track badness. Typically, in a case where one intends a death as a means, one has nested intentions. Yes, one intends the death; but this intention is a mere proximate intention. One also intends some (apparent) greater good. Why should we focus on the mere proximate (or nested) intention and take it to be morally decisive? Why shouldn't the agent's ultimate intention be relevant (or even decisive)? When one intends evil as a means, one's behavior adjusts to track evil but only as a means to some greater intended good.

Harming and Failing to Benefit. Intuitively, it seems almost inescapable that there is a moral difference between harming someone and merely failing to benefit him. For example, if I were to kill my neighbor's child, I would harm the child in a particularly egregious manner. In contrast, when I fail to send money to feed a starving child in Mozambique, I merely fail to benefit the child. It seems clearly worse to kill my neighbor's child than to fail to save a child in Mozambique.

The distinction between harming and failing to benefit has been employed by those who believe that we have stronger negative duties than positive duties. A negative duty is a responsibility not to harm, whereas a positive duty is a responsibility to benefit (help or assist) someone.

The factual distinctions discussed above—between action and omission, between intended means and mere side-effects—are (quite apart from their normative uses) tricky and delicate. Similarly, it is difficult to say exactly what it is to harm someone (or even to benefit him).¹² Let us say, however, that harming someone at least involves making him worse off than he otherwise would have been, whereas benefiting someone makes him better off than he otherwise would have been.

Proponents of the claim that we have stronger negative duties than positive duties attach intrinsic moral significance to the distinction between harming and merely failing to benefit. Thus, they can say that in Bystander 2, you would merely fail to benefit the one (if you allowed the train to proceed straight ahead), whereas you would clearly harm the innocent visitor to the hospital in Transplant if you were to cut him up in order to save the five. Similarly, in Fat Man (if you push the fat man) and Shark (if you shoot the fisherman), you would have to harm one in order to save the five, whereas in Drug and Boat you merely fail to benefit one in order to save the five.

Just as Bystander 1 indicated the inadequacy of the claim that the distinction between action and omission is in itself always morally significant, it also points to the inadequacy of the parallel claim with respect to harm and failing to benefit. If Bystander 2 and Bystander 1 are morally on a par, then the distinction between harming and merely failing to benefit cannot in itself be morally significant.

Consider also Random Mechanism. In this case, the tracks are configured in the shape of a Y. On the left track are five innocent persons, and on the right is one. There is a random mechanism at the bifurcation point of the tracks; when the train arrives, the mechanism randomly directs it either to the right or the left. Suppose, however, that you (a bystander) can override the random mechanism by pressing a

certain button. If you press the button, the train is definitely shunted to the right—the five are saved, but you cause the death of the one.

The principle asserting stronger negative than positive duties appears to permit you to allow the death of the one in Bystander 2 while not allowing you to save the five in Random Mechanism. This is because in Bystander 2 you would not be harming the one—you would not be making him worse off than he would be “otherwise” (i.e., but for your intervention). In contrast, in Random Mechanism, it seems that you would be making the one worse off than he otherwise might be. You would transform the situation from one where the one had a fifty-fifty chance of living to one where he essentially had no chance of living. Perhaps it is not obvious, but we believe that Bystander 2 and Random Mechanism are morally on a par. If it is permissible to allow the one to die in Bystander 2, thus saving the five, it seems permissible to save the five in Random Mechanism. Again, the principle appears to posit a moral discrimination which is not licensed by our considered intuitive judgments.

Thomson’s Strategy. Let’s go back to Bystander 1. Here, it seems permissible to shunt the train to the right, thus saving the five. Notice that, if you were to do so, you would take something that threatens five and deflect it so that it threatens only one. Here you would be doing something to the threat to minimize the incidence of a bad result; you would not be doing something bad to a person to minimize the incidence of a bad result, nor would you be introducing a new threat.

In contrast, in Transplant, if you were to save the five you would (in a clear sense) do something bad to a person (i.e., killing someone for his vital organs) in order to minimize the incidence of a bad result. Also, you would introduce a new threat, not simply redirect an already extant threat.

Judith Jarvis Thomson employs the above insights to suggest the following: whereas it may be permissible to redirect an already extant threat in order to minimize the incidence of a bad result, it is in general impermissible either to redirect an extant threat by acts that themselves violate someone’s stringent rights or to introduce a new threat in order to minimize the incidence of a bad result. Note that in Fat Man and Shark, you would clearly violate someone’s stringent rights in order to achieve your goals, whereas in Drug and Boat you would not.

The principle suggested by Thomson is different from the Doctrine of Double Effect. The doctrine distinguishes morally between Transplant and Hospital. In contrast, Thomson’s principle appears to rule out saving the five in both cases. This is because, in Transplant, you are clearly violating the innocent visitor’s stringent rights if you use his organs to save the five dying patients, and in Hospital (if you save five patients by manufacturing a drug that produces a lethal gas that kills one patient), you are introducing a new threat rather than merely redirecting an already extant threat.

Thomson’s principle does, however, apparently have some unintuitive implications. Consider first an implication which Thomson recognizes and embraces. Thomson’s principle would distinguish the following two cases.

The first case is called Deflect-onto-Pasadena. In this case, China has launched a nuclear weapon toward Los Angeles. The president is informed. He can either allow the bomb to continue on its path, in which case it would hit Los Angeles, or he

can employ deflecting missiles that would cause the bomb to be redirected. Unfortunately, the redirected bomb would land in Pasadena. The president cannot cause the bomb to avoid hitting a populous area altogether, but considerably fewer people would die if the bomb were to hit Pasadena.

The second case is Bomb Pasadena. In this case, China has launched a nuclear weapon toward Los Angeles. The president is informed, but this time he does not have any deflecting technology available to him. Rather, he can directly bomb Pasadena. The explosion in Pasadena would cause the bomb to change its trajectory, and the Chinese bomb (heading toward Los Angeles) would then be deflected into a remote desert area. Of course, many people would die as a result of the bombing of Pasadena, but we may plausibly suppose that considerably fewer would die than if Los Angeles were hit by the nuclear weapon.

Thomson's principle implies that the two cases are morally disparate. It implies that, whereas it would be permissible for the president to cause the bomb to be deflected in Deflect-onto-Pasadena, it would *not* be permissible for the president to cause the bomb to be deflected in the manner suggested in Bomb Pasadena. It is not evident, however, that there exists such a moral difference. To see this point, consider the following cases.

Call the first case, Jiggle-the-Tracks 1.¹³ A trolley is hurtling down a track toward five innocent persons. As before, the brakes have failed, and there is no way of stopping the trolley. You are a bystander watching the scenario develop. You notice that there is a spur of track leading to the right on which (very close to the bifurcation of the tracks) stands one innocent person. You also notice that there is a button you could push that would cause the tracks to jiggle in such a way as to cause the train to go onto the right fork. If you were to push the button, you would save the five persons but cause the death of the one.

What to do? It seems intuitively permissible to push the button, and Thomson's approach would permit this option. You would deflect a threat that threatens five in such a way that it then threatens only one.

Now imagine a related case, Jiggle-the-Tracks 2. Everything is the same here except for the manner of track-jiggling which would result from your pushing the button. That is, there is a trolley hurtling down the tracks toward five persons with a spur leading to the right on which there stands a man (very close to the point of track bifurcation). This time, if you push the button, the tracks would be jiggled in such a way that the man would be toppled onto the track in front of the train. Suppose that the man is large enough to stop the progress of the train, but if this were to occur, he would be killed.

The two jiggle cases seem to be morally parallel. It would be morally permissible to push the button in Jiggle 2 if and only if it would be morally permissible to do so in Jiggle 1. Whereas it seems that there is no important moral difference between the two cases, Thomson's approach must distinguish them. She must say that although it is morally permissible to push the button in Jiggle 1, it would not be morally permissible to do so in Jiggle 2. This is because in Jiggle 1, you would deflect a threat without violating anyone's stringent rights, whereas in Jiggle 2 you would violate someone's rights when you jiggle the man onto the track.

Here is a similar pair of cases. Call the first case, Lethal Gas 1. In this case, you can see that lethal gas is proceeding down a hallway toward a room in which there are five innocent persons. You know that there is a trapdoor leading to a small room to the right. If you open the trapdoor, the lethal gas will be directed to the right, killing an innocent man who is sitting in the room.

Lethal Gas 2 is similar except that you know that if you open the trapdoor and do nothing else, the lethal gas will continue proceeding toward the end of the hallway to the room where the five are. (Perhaps there is a different draft of air in Lethal Gas 2 from the one in Lethal Gas 1.) You see, however, that if you open the trapdoor and push the one man (who, again, is sitting in a small room to the right) into the main hallway, he will stop the lethal gas (perhaps he is fat and the hall is narrow). Lamentably, if you push the man into the hallway, the lethal gas will kill him.

In Lethal Gas 1, diverting the gas onto the man redirects a threat without violating anyone's stringent rights. In Lethal Gas 2, pushing the man into the gas violates the man's rights. Thomson must distinguish the two cases. Although there is a clear factual difference between the two cases, it is unclear that this factual difference underwrites a moral difference. It seems that the two Lethal Gas cases are morally equivalent, and yet Thomson's approach must distinguish them.

Participants and Bystanders. It is very tempting to say about Transplant, for example, that if you were to cut up the visitor in the hospital, you would take someone, for example, who was not a participant in the problematic context or situation and force him into the situation. The visitor is not a participant in the original situation; he is a mere outsider or bystander. In contrast, in cases such as the Bystander cases, all of the persons involved are participants. Similarly, in Fat Man, you would take a mere outsider and force him into the situation (if you were to push the fat man over the handrail), whereas in Drug, you would simply make a decision between participants (insiders).¹⁴

This approach distinguishes nicely between cases such as Random Mechanism and Fat Man because the persons on the alternative tracks to which a trolley is randomly directed are all participants in a way that the fat man is not; but what about cases such as Bystander 1 and Fat Man? How can it be established that the one person in Bystander 1 is a participant, whereas the fat man in Fat Man is a mere outsider? It is unclear how this could be established. In Fat Man, the fat man would not be in danger but for the existence of the bystander who can cause him to fall over the handrail. In Bystander 1, the one person would not be in danger but for the existence of the bystander who can cause the train to be shunted to the right. So it is a challenge for the proponent of this approach to distinguish in a useful way between insiders (participants) and outsiders (bystanders).

Non-additivity. In his contribution to this anthology, John Taurek describes a distinctive way of viewing certain cases. His point is that moral "goods" and "bads" are non-additive. That is to say, if five individuals experience some moral bad, it need not follow that this state of affairs is morally worse than one in which one individual experiences the same moral bad. For instance, if five individuals experience a headache of a certain intensity, this is not necessarily a morally worse situation than

one in which one individual experiences a headache of the same intensity. One way of arguing for this sort of view (or at least rendering it plausible) is to point out that we cannot simply add up the five separate headaches to get one migraine; there is no single individual who experiences a "mega-headache" composed of the five headaches of the five separate individuals. Similarly, Taurek would argue that the death of one is no worse a situation than the deaths of five.

If one adopts this view, one might be attracted to a certain way of resolving cases such as Bystander 1, Drug, and Boat. For example, in Drug, one might be tempted to flip a coin to determine whether to give the drug to the one or the five. This approach would give each individual an equal chance of surviving. Similarly, one might explore a similar strategy in cases such as Bystander 1 (and Bystander 2) and Boat.

However, this leaves the residual problem of whether one should also employ these strategies in cases such as Transplant, Fat Man, and Shark. Evidently not. Thus, the approach suggested by Taurek does not in itself provide the resources to solve the puzzles set out above. (In all fairness, however, it should be noted that Taurek does not suggest that his approach can be employed to solve this problem, only that it is appropriate in certain contexts.)

Summary. We have presented a number of cases with puzzling results. We next considered various principles (some of which embody distinctions that seem quite intuitive and natural) that attempt to distinguish the cases in illuminating and satisfying ways. We have seen the strengths and weaknesses of the various principles. None of the proposals seems entirely adequate. None of the proposed principles captures all of our considered judgments about the puzzle cases. Of course, it does not follow from this fact that the proposed principles are worthless. Many of them capture what we want to say about certain situations, even if they don't crystallize what we want to say about all situations. Furthermore, we can learn from their inadequacies, possibly revising them and building upon their insights. The inadequacy of existing proposals might provide reason to continue to seek more refined and morally sensitive principles. Ultimately, we seek a less superficial—and more penetrating—level of understanding.

METHODOLOGY

Although there may be a wide area of agreement on moral matters, reasonable people may disagree about many cases. How can disagreements be resolved in ethics? It is relatively clear how to proceed in order to make progress in mathematics and science, but how can progress be made in ethics? At this point we need to discuss methodology in ethics.

Let us begin by thinking about how we go about practicing a science—physical science or social science. Start with astronomy. There are certain data which must be explained by some general theory. The data here are observations about planetary motion, for example. After collecting a certain number of data, we seek to explain the

Lesson 26

The Social Contract: Hobbes

Objectives

- To analyze the relationship of government to its citizenry called the social contract
- To follow the development of the social contract through the works of Thomas Hobbes, John Locke, and Jean-Jacques Rousseau

Notes to the Teacher

The foundations of popular government as we know it today started with the Greeks and Romans. Developmentally, democracy takes a hiatus during the Dark and Middle Ages. The period of Western history referred to as the Renaissance and the Age of Enlightenment transformed Europe politically, economically, and socially. It is during this period that the theory of democracy gets redefined. Philosophers such as Thomas Hobbes, John Locke, and Jean-Jacques Rousseau develop the concept of the social contract which will establish a base for the ideals of modern democracy. Beginning with Hobbes, one can trace the ideas found common to all three authors.

In England, political turmoil centered on the issue of limiting the power of the king. The disagreement between the English Parliament and the monarchy would escalate into civil war. These troubled times would last nearly forty years—culminating in 1688 with the Glorious Revolution, which established a constitutional monarchy. Thomas Hobbes witnessed this trauma and used his experiences to launch his political philosophy. Hobbes disagreed with the idea of “divine rights of kings” but justified a ruler’s absolute power by reasoning the existence of a “social contract.” In retrospect, it is easy to see why Hobbes’ support of absolutism went against the wave of democratic change sweeping through his country. He was not the most popular man of the period. However, his concept of the social contract set the foundation for later philosophers like Locke and Rousseau who refine and build on Hobbes’ main ideas.

In this lesson, students study the nature of the social contract by examining the working relationships in families, school, and employment. Then students identify the main principles of Hobbes’ great philosophical work, *Leviathan*.

Lessons 26, 27, and 28 form a mini-unit on the idea of social contract.

Procedure

1. Begin with a discussion of the term *social contract*. What does it mean? What are some examples? List students’ responses on the board. (*Possible answers could include families, school, and jobs.*)
2. Define a contract as an agreement. Explain that many agreements are unwritten or implied between the involved parties. Each participant has rights and responsibilities.
3. Choose one example of family, school, or place of employment, and have students make a separate list of the rights and responsibilities for the two involved parties (family: parents and children; school: teachers and students; job: employer and employee). This exercise can be conducted as a classroom discussion, or students can be divided into groups and assigned one of the aforementioned examples as a presentation project. Encourage students to formulate an ideal social contract pertaining to the example.
4. Discuss the social contracts created. Ask how these contracts compare with a contract between a citizen and his or her government. (*As a citizen, one has certain responsibilities such as voting, taxes, etc., and the government has a responsibility to protect the rights of its citizenry and rule fairly.*)
5. Begin discussing Thomas Hobbes by explaining the political situation in England during the 1600s. Use the information found in the first overhead in the Teacher Resource Page; the Notes to the Teacher may also be helpful.

6. Distribute **Handout 41**. Read the introduction together. Have students answer the questions individually and break into small groups to discuss their answers. Conduct a large group discussion of students' responses. Use the second overhead in the Teacher Resource Page to review and reinforce Hobbes' political philosophy.
7. Conclude by asking the following question:
Does the social contract still exist today?
Briefly discuss students' responses.

Suggested Responses:

Excerpt 1—*description of man in the precarious state of nature*

Excerpt 2—*description of life for an individual who has to protect himself*

Excerpt 3—*definition of the social contract*

Excerpt 4—*By giving absolute power to the ruler, security of the state is maintained.*

Excerpt 5—*Rulers should be given absolute power.*

Excerpt 6—*The value of the state is the ability to protect its individuals.*

Excerpt 7—*Self preservation is basic to human life.*

Excerpt 8—*People band together for mutual protection.*

England and Democracy

1. Jury System. King Henry II (ruled 1154–1189). Replaced feudal justice with royal courts.
2. Magna Carta (1215). King John signs at Runnymede. The king may not imprison any free person except through trial and may not levy taxes without the consent of the Great Council (nobility and clergy).
3. Model Parliament (1295). King Edward I creates a two-house parliament: House of Lords and House of Commons.
4. English Common Law (early 1300s). Court decisions are made on legal precedent.
English Civil War 1642–1649
Cromwell 1649–1658
Charles II returns 1660
5. Habeus Corpus Act. Charles was forced to sign it. The act guarantees the writ of habeus corpus, which ensures that a prisoner cannot be held in jail without just cause.
The Glorious Revolution 1688–1689

Hobbes' *Leviathan* Summary

1. Humans in their original state of nature were unhappy and miserable.
2. Humans entered into a social compact to surrender their freedom to a ruler and granted the ruler absolute power in order to enable the ruler to maintain law and order.
3. Since the ruler was not a party to the contract, the people have no right to complain about the ruler's policies.¹

Hobbes supports Royal Absolutism.

¹Irving L. Gordon, *World History Review Text*, 2d ed. (New York: Amsco School Publications, 1979), 170.

Leviathan

After reading the background information, match the main principles of Thomas Hobbes' *Leviathan* with the actual excerpt. Write out the principles in full phrases.

The *Leviathan* by Thomas Hobbes is a major dissertation on political philosophy. In its entirety, it also includes ideas on metaphysics, ethics, and epistemology. The name *Leviathan* is a biblical term describing an all-powerful sea monster. The following excerpts summarize the main arguments for the theory of the social contract.

Political Philosophy Principles of *Leviathan*

- description of life for an individual who has to protect himself
- People band together for mutual protection.
- Rulers should be given absolute power.
- Self-preservation is basic to human life.
- The value of the state is the ability to protect its individuals.
- By giving absolute power to the ruler, security of the state is maintained.
- description of man in the precarious state of nature
- definition of the social contract

Excerpt 1—*Leviathan*, Chapter 13

Nature hath made men so equal in the faculties of the body and mind, as that, though there be found one man sometimes manifestly stronger in body or of quicker mind than another, yet when all is reckoned together the difference between man and man is not so considerable as that one man can thereupon claim to himself any benefit to which another may not pretend as well as he. . . .

Main principle described: _____

Excerpt 2—*Leviathan*, Chapter 13

. . . men live without other security than what their own strength and their own invention shall furnish them withal. In such condition, there is no place for industry, because the fruit thereof is uncertain, and consequently no culture of the earth; no navigation nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing such things as require much force, no knowledge of the face of the earth; no account of time, no arts, no letters, no society, and, which is worst of all, continual fear and danger of violent death, and the life of man solitary, poor, nasty, brutish, and short.

Main principle described: _____

Excerpt 3—*Leviathan*, Chapter 14

Again, one of the contractors may deliver the thing contracted for on his part, and leave the other to perform his part at some determinate time after, and in the meantime be trusted; and then the contract on his part is called 'pact' or 'covenant'; or both parts may contract now to perform hereafter; in which cases he that is to perform in time to come, being trusted, his performance is called 'keeping of promise,' or faith, and the failing of performance, if it be voluntary, 'violation of faith. . . .'

Main principle described: _____

Excerpt 4—Leviathan, Chapter 17

The only way to erect . . . a common power, as may be able to defend [human beings] from the invasion of foreigners and the injuries of one another, and thereby to secure them in such sort as that, by their own industry, and by the fruits of the earth, they may nourish themselves and live contentedly; is, to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will: which is as much as to say, to appoint one man, or assembly of men, to bear their person; and everyone to own and acknowledge himself to be author of whatsoever he that so beareth their person, shall act, or cause to be acted in those things which concern the common peace and safety; and therein to submit their wills, everyone to his will, and their judgments, to his judgment.

Main principle described: _____

Excerpt 5—Leviathan, Chapter 17

And he that carrieth this person, is called sovereign, and [is] said to have sovereign power; and everyone besides, his subject.

Main principle described: _____

Excerpt 6—Leviathan, Chapter 14

. . . when he seeth men proceed against him by violence whether they intend his death or not. And lastly the motive and end for which this renouncing and transferring of right is introduced is nothing else buy the security of a man's person in his life and in the means of so preserving life, as not be weary of it.

Main principle described: _____

Excerpt 7—Leviathan, Chapter 17

The final cause (purpose), end, or design of men who naturally love liberty and dominion over others, in the introduction of that restraint upon themselves in which we see them live in commonwealths, is the foresight of their own preservation, and of a more contented life thereby. . . .

Main principle described: _____

Excerpt 8—Leviathan, Chapter 14

From this fundamental law of Nature by which men are commanded to endeavour peace, is derived this second law, 'that a man be willing, when others are so too, as far-forth as for peace and defence of himself he shall think it necessary, to lay down this right to all things, and be contented with so much liberty against other men as he would allow other men against himself.'

Main principle described: _____

Lesson 27

The Social Contract: Locke

Objectives

- To identify John Locke's ideas regarding the laws of nature and the social contract
- To compare the political philosophies of John Locke and Thomas Hobbes

Notes to the Teacher

Another English philosopher witnessing the English civil war and the Glorious Revolution was John Locke. However, Locke presents a different perspective on the politics of the day. Like Thomas Hobbes, John Locke believes in the existence of a social contract; but unlike Hobbes, Locke contends individuals have certain inalienable rights which include liberty, justice, and protection of rights. These rights supersede the absolute power of a monarch.

John Locke believes that if a monarch rules wrongfully, the populace has the right to replace the unjust ruler. In a sense, Locke states the argument for representative democracy. Rulers need to be held accountable for actions and decisions. According to Locke, the majority rules.

Another concept introduced by Hobbes is man in the state of nature. Locke takes this idea of the state of nature and develops it into his treatises of government. Similar to other political philosophers of his time, Locke followed the lead of natural scientists who had discovered an orderly universe and searched for natural laws that regulated society by contending that the ideal society must be one that is ruled by the laws of nature.¹

The definition of man in the state of nature and the rationale of the social contract from Locke's perspective are examined in this lesson. Students analyze an excerpt from Locke's *Two Treatises on Government* and then role-play the main ideas.

Lessons 26, 27, and 28 form a mini-unit on the idea of social contract.

Procedure

1. Write the names of the authors, works, and dates written for *Leviathan* and *Two Treatises of Government* on the board. Discuss the timing of their writing in relation with English political events. The Notes to the Teacher are helpful.
2. Briefly discuss the biographical background of John Locke. Use the chart from Lesson 23 and the Teacher Resource Page from Lesson 19.
3. Distribute **Handout 42**. Have students read and answer questions individually. Discuss students' responses. Focus on question five, and discuss the relevance of Locke's ideas on seventeenth- and eighteenth-century politics. Use the overhead in the Teacher Resource Page to review and reinforce Locke's political philosophy.

Suggested Responses:

1. *easier to read, more revolutionary because it calls for removal of unjust rulers*
2. *laws of nature, social contract*
3. *Hobbes believed that there could be a right to private property only after the legal order had been set up; Locke said that the right to private property comes before civil law. Locke said that the main reason people put themselves under government is the preservation of their property.*

Understand that property means lives, liberty, and estates. To Hobbes, sovereign rule was absolute; Locke believed there must be a supreme power but he puts it in the hands of the legislature. Locke's biggest break from Hobbes comes in his idea that if the people do not like their current government, they may set up a new one.

4. *The Declaration of Independence by Thomas Jefferson closely resembles Locke's work.*

¹John M. Good, *The Shaping of Western Society: An Inquiry Approach*, ed. Edwin Fenton (New York: Holt, Rinehart and Winston, 1968), 236.

5. Absolute monarch—*displeasure because it would be a threat to absolute rule*

Political philosophers—*Answers will vary but should mention that many political philosophers modeled their ideas after Locke.*

Middle class—*Since they were educated enough to understand Locke's ideas, Locke's messages would offer another option to the strict social stratification that existed during the 1600s and 1700s.*

Peasants—*ambivalence, since they couldn't read*

4. Have selected (or volunteer) students actively role-play the various persons/classes in question five. Permit presenters to use their responses for their role-play. Try to get at least two performers for each segment represented.

5. Conclude by discussing the significance of when each work was written in relation to the English Civil War. What impact did the timing have on the ideas? (*Leviathan was written during the civil war, and Second Treatise was written after; Hobbes is very tentative in the issue of government change, and Locke is very bold in his assertion about unjust government.*)

John Locke's Political Philosophy

1. All men have certain natural rights—a right to life, to liberty, and to the possessions which they acquire by their own labor.
2. God gave men reason in order that they may know what their natural rights are and in order that they may devise a government to protect them in these rights.
3. Men therefore owe obedience to the government they have established, as long as the government protects them in their rights.
4. When any government ceases to do this, the men who made it may destroy it.²

²Carl L. Becker and Kenneth S. Cooper, *Modern History: Europe Since 1600* (Morristown, N.J.: Silver Burdett Company, 1964), 123.

Two Treatises of Government

Read the following excerpt of John Locke's *Two Treatises of Government* (simplified by John M. Good), and answer the questions at the end.

To understand political power, we must consider the condition in which nature puts all men. It is a state of perfect freedom to do as they wish and dispose of themselves and their possessions as they think fit, within the bounds of the law of nature. They need not ask permission or the consent of any other man.

The state of nature is also a state of equality. No one has more power or authority than another. Since all creatures of the same species and rank have the same advantages and the use of the same skills, they should be equal to each other without subordination or subjection. The state of nature has a law of nature to govern it. Reason is that law. It teaches all mankind that, since all men are equal and independent, no one ought to harm another in his life, health, liberty, or possessions. All men are made by one omnipotent and infinitely wise Maker. They are all servants of one sovereign Master who sent them into the world to do His business. They are His property, made to live during His, not one another's, pleasure. He has put men naturally into a state of independence, and they remain in it until, by their own consent, they choose to become members of a political society.

If man in the state of nature is free, if he is absolute lord of his own person and possessions, why will he part with his freedom? Why will he subject himself to the dominion and control of any person or institution? The obvious answer is that rights in the state of nature are very uncertain for they are constantly exposed to the attacks of others. Since every man is his equal and since most men do not concern themselves with equity and justice, the enjoyment of rights in the state of nature is unsafe and insecure. Hence each man joins in society with others for the mutual preservation of his life, liberty, and estates, which I call by the general name property. Since men hope to secure their property by establishing a government, they will not want that government to destroy the objective they sought to attain. When legislators try to destroy or take away the property of the people, or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the populace who can then refuse to obey the laws. When legislators, motivated by ambition, fear, folly, or corruption, try to gain or give someone else absolute power over the lives, liberties, and estates of the people, they abuse the power which the people had put into their hands. It is then the privilege of the people to establish a new legislature to provide for their safety and security. These principles also hold true for the executive, who helps to make laws and carry them out. . . .

Perhaps some will say that, since the people are ignorant and discontented, a government based on their unsteady opinion and uncertain humor will be unstable. They might argue that no government can exist for long if the people may set up a new legislature whenever they do not like the old one. But people do not so easily give up their old forms of government as some are apt to suggest. In England, for example, the unwillingness of the people to throw out their old constitution has kept us to, or brought us back again to, our old legislature of king, lords, and commons.

However, it will be said that this philosophy may lead to frequent rebellion. To which I answer, such revolutions are not caused by every little mismanagement in public affairs. But if a long train of abuses, lies, and tricks, all tending the same

way, make a government's bad intentions visible to the people, they cannot help seeing where they are going. It is no wonder that they will then rouse themselves, and try to put the rule into hands which will secure to them the purpose for which government was originally organized.³

1. Generally speaking, how does Locke compare to Hobbes?
2. Which ideas did Locke steal from Hobbes?
3. How do Locke's ideas differ from Hobbes'?
4. Many of Locke's ideas should sound familiar to you. Why?
5. Role playing: Assume the role of each of the following, and give your perspective of Locke's ideas.
 - If you were an Absolute Monarch:
 - If you were other political philosophers:
 - If you were a member of the discontented middle class:
 - If you were a peasant:

³John M. Good, *The Shaping of Western Society: An Inquiry Approach*, ed. Edwin Fenton (New York: Holt, Rinehart and Winston, 1968), 234-235.

Lesson 28

The Social Contract: Rousseau

Objectives

- To identify Jean-Jacques Rousseau's ideas regarding the laws of nature and the social contract
- To compare the social contract theories of Thomas Hobbes, John Locke, and Jean-Jacques Rousseau

Notes to the Teacher

Varying from Thomas Hobbes, John Locke's political theories were both democratic and revolutionary. They declare that governments are made to protect men's natural rights, and those same governments may be overthrown when they cease to protect these rights. Locke's ideas were borrowed by both the American and the French political theorists during the 1700s.

Prior to the French Revolution, philosopher Jean-Jacques Rousseau formulated his own definition of the social contract. Rousseau's form of the social contract is significantly different from that of Hobbes and Locke. Both Hobbes and Locke contended that individuals can act freely to decide their best interests. Rousseau disagreed with this premise and introduced the concept of the "general will," which contends that people give of themselves totally to the whole community, including rights and freedoms.

In this lesson, students examine an excerpt from *The Social Contract* and identify the differences from the works of Hobbes and Locke. To conclude, students compare and contrast the three political theories to the American document, the Declaration of Independence.

Lessons 26, 27, and 28 form a mini-unit on the idea of social contract.

Procedure

1. Write the phrase "Man was born free, and everywhere he is in chains." Identify this quote as Rousseau's opening line from his major political treatise, *The Social Contract*. Ask students what they think Rousseau meant by this statement. Briefly discuss students' responses.
2. Review the social contract ideas of Hobbes and Locke. The overheads in the Teacher

Resource Pages from the two previous lessons are helpful.

3. Briefly review the biographical and historical background for Rousseau. The Notes to the Teacher are helpful. Also, use the information from Lesson 23.
4. Distribute **Handout 43**, the excerpts from Rousseau's *Social Contract*. Have students read and answer the questions. Review students' responses. Use the overhead in the Teacher Resource Page to review and reinforce Rousseau's political philosophy.

Suggested Responses:

1. *Man is innately good and free; the world around him is what changes.*
 2. *No laws/rules, no order, based upon individuality; unsafe, advantages of civilization outweigh the disadvantages.*
 3. *All rights are given up completely.*
 4. *Protection, safety, security, mutual dependency, order, direction; you can gain more by pooling resources.*
 5. *The majority rules; whatever the majority says everyone must follow.*
 6. *government, schools, social classes, community*
 7. *Men were good not evil; people are more free when united together.*
 8. *Social contract, equality, and the idea of the state of nature differed from Hobbes because Hobbes supported absolutism; differed from Locke and Hobbes because they believed that man was individualistic and Rousseau believed man was a social creature.*
5. Conclude the study of the social contract with a comparison/contrast of Hobbes, Locke, and Rousseau's works on the social contract and the American Declaration of Independence.
 6. Obtain class sets of Jefferson's document, and have students identify all the parts that appear to have come from any of the three European documents. Encourage students to compete to find the most examples. Conduct a classroom discussion based on students' responses.

Jean-Jacques Rousseau's Political Philosophy

1. Humans in their original state of nature were happy and possessed natural rights.
2. As inequities arose, people entered into a social contract among themselves, agreeing to surrender their rights to the community and to submit to the General Will—the will of the majority.
3. The people created government, as a necessary evil, to carry out the General Will.
4. If a government fails in this purpose (to carry out the General Will), the people have the right to overthrow and replace it.¹

¹Irving L. Gordon, *World History Review Text*, 2d ed. (New York: Amsco School Publications, 1979), 183.

The Social Contract

Read the following excerpts from Jean-Jacques Rousseau's *The Social Contract*. Answer the questions at the end, and be prepared to share your answers with the class.

Man was born free, and everywhere he is in chains. Many a one believes himself the master of others, and yet he is a greater slave than they. How has this change come about? I do not know. What can render it legitimate? I believe that I can settle this question.

If I considered only force and the results that proceed from it, I should say that so long as a people is compelled to obey and does obey, it does well; but that, so soon as it can shake off the yoke and does shake it off, it does better; for, if men recover their freedom by virtue of the same right by which it was taken away, either they are justified in resuming it, or there was no justification for depriving them of it. But the social order is a sacred right, which serves as a foundation for all others. This right, however, does not come from nature. It is therefore based on conventions. The question is to know what these conventions are. Before coming to that, I must establish what I have just laid down. . . . ²

I assume, for the sake of argument, that mankind at some time reached a point when the disadvantages of remaining in a state of nature outweighed the advantages. Under these conditions, the original state of nature could no longer endure. The human race would have perished if it had not changed its way.

Men, being human, cannot develop new powers. But they can unite and control the powers they already have. Men in the state of nature could get together, pooling their strength in a way that would permit them to meet any challenge. They had to learn to work together under central direction.

A real concentration of human powers could be brought about only as the result of an agreement among individual men. But each individual man relies on his own strength and his own freedom of action to protect and preserve himself. How can he limit his strength and his freedom of action without injuring himself . . . ?

Some form of association must be found which can rally the whole community for the protection of the person and property of each of its citizens in such a way that each man, because he is a voluntary member of the association, renders obedience to his own will and hence remains as free as he was before. That is the basic problem solved by the social contract.

The provisions of the social contract are determined by the nature of the act [of association] in such a way that the least modification will make them invalid. Even though the terms of association may never have been formally accepted in open meeting, they are everywhere the same and universally recognized. If the social contract were in any way broken by anyone, then each individual could at once resume all the rights which were his in the state of nature. He would regain his natural liberty by losing the liberty of the social contract for which he originally gave up his freedom of action.

The essence of the social contract can be stated simply: Each individual surrenders all his rights to the community. Since each man surrenders his rights without reservation, all are equal. And because all are equal, it is to everyone's interest to make life pleasant for his fellows.

²Jean-Jacques Rousseau, *The Social Contract* (New York: Simon & Schuster, 1971), 7.

Since all rights have been surrendered to the community without reservation, no one has any claim against the group. If any rights were left to individuals and no one was given authority to decide between individual rights and the public good, then each man would try to extend the scope of those rights he had reserved for himself. This situation would mean that a state of nature still existed. All rights must be surrendered; none may be reserved. . . .

The heart of the idea of the social contract may be stated simply: Each of us places his person and authority under the supreme direction of the general will; and the group receives each individual as an indivisible part of the whole. . . .

In order that the social contract may not be a mere empty formula, everyone must understand that any individual who refuses to obey the general will must be forced by his fellows to do so. This is a way of saying that it may be necessary to force a man to be free; freedom in this case being obedience to the will of all.³

1. What do you think Rousseau meant by the statement, "Man was born free, and everywhere he is in chains?"
2. What is the state of nature? Why do men leave it?
3. What do they give up when they leave the state of nature?
4. What do they gain?
5. Define the concept of "general will."
6. What kind of political institutions are created by men when they leave the state of nature?
7. In what ways were Rousseau's ideas revolutionary?
8. Compare Rousseau's idea of the social contract to the ideas of Hobbes and Locke.

³Jean-Jacques Rousseau, *The Social Contract*, excerpted in *The Shaping of Western Society: An Inquiry Approach*, John M. Good, ed. Edwin Fenton (New York: Holt, Rinehart and Winston, 1968), 235-36.

LESSON 1

What Would Life Be Like in a State of Nature?

Purpose of Lesson

This lesson introduces you to some basic ideas of the natural rights philosophy and theories of government that were of great importance in the development of our government.

These major ideas include the state of nature, the law of nature, natural rights, consent, and the social contract. You learn about these ideas as they were developed by the English philosopher John Locke (1632–1704).

When you finish this lesson, you should be able to describe how and why the natural rights philosophers used an imaginary state of nature to think about the basic problems of government. You should be able to explain some of the basic ideas of the natural rights philosophy.

Finally, you should be able to explain that the purpose of government based on the natural rights philosophy is to preserve our natural rights to life, liberty, and property.

This excerpt from the Declaration of Independence includes some of the most important philosophical ideas underlying our form of government. They are ideas that had been familiar to almost everyone in the American colonies long before the Revolutionary War.

These ideas had been preached in churches, written in pamphlets, and debated in public and private. They had been developed and refined by political philosophers such as the Englishman John Locke (1632–1704) and others. Locke was the most important influence on the thinking of the Founders at the time of the Revolution. Locke's political philosophy is often called the **natural rights philosophy**.

The natural rights philosophy is based on imagining what life would be like if there were no government. Locke and others called this imaginary situation a **state of nature**. By this, Locke did not necessarily mean people living in a wilderness. A state of nature is a condition in which there is no government. For example, even with the existence of the United Nations, international relations between countries today operate in a state of nature. There is no superior power that can act effectively as a government over these individual states.

Terms to Know

civil rights
consent
human nature
law of nature
legitimate

natural rights
political rights
social contract
state of nature
unalienable (inalienable)

What is the natural rights philosophy?

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights; Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government....

Declaration of Independence, 1776



Did the end of white rule in South Africa in 1993 result in a state of nature? Why?

Thinking about what life would be like if there were no government was very useful to philosophers such as Locke in answering questions like these:

- What is **human nature**? That is, what traits of personality and character, if any, do all human beings have in common? For example, are all people selfish or do they tend to care for the good of others?
- What should be the purpose of government?
- How do the people running a government get the right to govern?
- How should a government be organized?
- What kinds of government should be respected and supported?
- What kinds of government should be resisted and fought?

The natural rights philosophers' answers to these questions provided the foundation for many arguments the Founders made to explain and justify their decision to separate from Britain. They also used these ideas in writing state constitutions after the Revolutionary War and later in writing the Constitution of the United States and the Bill of Rights.

Critical Thinking Exercise

TAKING THE POSITION OF A POLITICAL PHILOSOPHER

To understand the natural rights philosophy, you should try to answer the questions it addresses. Some important questions are included in the following exercise. Your class should be divided into small discussion groups. The members of your group may not all agree on the answers. It is important to know that at various times in history, people have had very different views on these matters.

Imagine that all the students in your school were transported to a place with enough natural resources for you to live well, but where no one had lived before. When you arrive, you have no means of communicating with people in other parts of the world. With this imaginary situation in mind, answer the following questions. Discuss your answers, and then compare your answers with those of John Locke, in the next section.

1. Upon arrival would there be any government or laws to control how you lived, what rights or freedoms you exercised, or what property you had? Why?

2. Would anyone have the right to govern you? Would you have the right to govern anyone else? Why?
3. Would you have any rights? What would they be?
4. What might people who were stronger or smarter than others try to do? Why?
5. What might the weaker or less sophisticated people try to do? Why?
6. What might life be like for everyone?



John Locke (1632–1704)

In what ways did Locke's ideas influence the Founders?

How do your answers compare with those of John Locke?

Your answers may be similar to those developed by John Locke or they may differ. In this lesson we are focusing on understanding Locke's answers because they were widely shared by Americans living during the 1700s. They also played a very important role in the development of our government.

1. Locke believed that there were rules in a state of nature. He called these rules natural law or the **law of nature**. He said, "The state of nature has a law of nature to govern it which obliges every one.... No one ought to harm another in his life, health, liberty, or possessions...."

They were "the Laws of Nature and of Nature's God," as Thomas Jefferson called them in the Declaration of Independence. Jefferson believed they were laws made by a Supreme Being for the benefit of human beings.



According to Locke, how is personal property protected in a state of nature?

Locke believed that most people understood this law of nature through the use of their reason and followed it because their consciences obliged them to do so. Not all humans were reasonable or good, however. There might even be disagreement about what the “laws of nature” were. If there were no government, there would be no one with the right to interpret or enforce these laws.

According to Locke, there would be no government because a government cannot exist until it has been created. A **legitimate** government cannot exist until the people have given their **consent** to be ruled by it. Thomas Jefferson included this idea in the Declaration when he wrote that “Governments are instituted among men, deriving their just powers from the consent of the governed....”

2. No one would have the right to govern you, nor would you have the right to govern anyone else. According to Locke, the only way anyone gets the right to govern anyone else is if that person gives his or her consent. If the people to be governed have not consented to the creation of a government, there is no legitimate government.
3. Using his reason to determine what rights were provided for by the law of nature, Locke asked himself: “What are the things that all people always

need and seek, no matter what they believe, no matter when or where they live?” His answer identified the following rights:

- **Life.** People want to survive and they want their lives to be as free as possible from threats to their security.
- **Liberty.** People want to be as free as possible from the domination of others, to be able to make their own decisions, and to live as they please.
- **Property.** People want the freedom to work and gain economic goods such as land, houses, tools, and money, which are necessary to survival.

These rights were called **natural rights** and you would have the right to defend them if other people threatened to take them away.

4. Locke believed that people are basically reasonable and sociable, but they are also self-interested. Since the only security people would have for the protection of their natural rights would be their own strength or cunning, people who were stronger or smarter would often try to take away the life, liberty, and property of the weak.
5. Weaker or less sophisticated people might try to protect themselves by joining together against the strong.
6. Since there would be no laws that everybody agreed upon, and no government to enforce them, everybody’s rights would be very insecure.



Why did Locke believe it was necessary for people to create governments?

What do you think?

1. Give examples of problems that might arise when one individual's rights to life, liberty, and property conflict with those of other individuals. What considerations might be used to resolve these conflicts?
2. Should some rights be given more protection than other rights? Why? Give examples.
3. The natural rights philosophy claims that government is based on consent. How do we give our consent and how do we withdraw it?
4. Many people today believe that the rights to life, liberty, and property include the right to public education and health care. Would the founders have agreed? Do you agree? Why?

What is the significance of Locke's definition of the natural rights to life, liberty, and property?

References to "human rights," "political and economic rights," "student rights," "consumer rights," "parental rights," and other terms using the word appear in the news every day. "Rights" is a word you are already familiar with. We have become so accustomed to the word, we don't often think about what it means.

A **right** may be described as a claim to have or obtain something, or to act in a way that is justified on legal or moral grounds. For example, you might claim the right to practice your own religion and justify it by appealing to the First Amendment of the Constitution. This is not, of course, the only justification you could give.

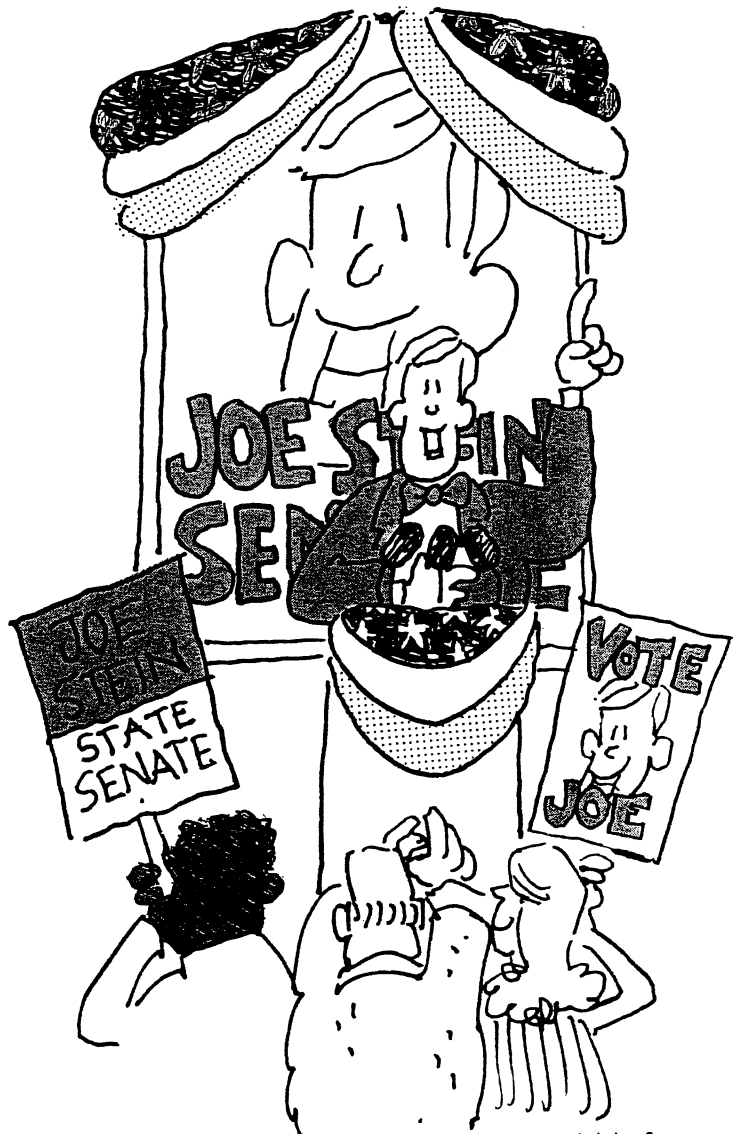
In describing the concept of **natural rights**, philosophers like John Locke were making a bold, new departure from previous uses of the term rights. Before the time of Locke and the other natural rights philosophers, the concept of rights had been applied in a very limited and selective way. More often than not, rights were considered special privileges, enjoyed only by certain groups, classes, or nations of people. They were exclusive rights, not enjoyed by those outside the group.

The natural rights philosophers disagreed with this interpretation. They believed that people's opportunities should not be limited by the situation or group into which they were born. These philosophers regarded the individual, rather than the class or group, as the most important social unit. They saw society as a collection of individuals, all of whom shared the same right to pursue his or her own welfare.

Locke, for example, defined natural rights in terms of life, liberty, and property because he considered them to be the essence of humanity. They are what make us human beings and what define our purpose in life. They

are inclusive rights, belonging to every human being. These rights Locke also considered to be **unalienable**, the word that Jefferson used in the Declaration. This means they are so much a part of human nature that they cannot be taken away or given up. "The sacred rights of mankind," said another Founder, Alexander Hamilton, "are written, as with a sun beam in the whole volume of human nature, by the hand of the Divinity itself, and can never be erased or obscured by mortal power."

Governments and societies based on the natural rights philosophy guarantee specific rights to preserve our natural rights. Under the U.S. Constitution, for example, you possess **civil rights**, securing such things as freedom of conscience and privacy, and protecting you from unfair discrimination by government or others. You also possess certain **political rights**, like the right to vote or run for office, which give you control over your government. Such civil and political rights serve to protect natural rights to life, liberty, and property.



Why are political rights necessary to protect our natural rights?

What did Locke mean by the "social contract"?

In an ideal state of nature, the law of nature would prevail. No one would have the right to interfere with your life and your freedom to acquire and hold property. Locke, however, realized that because not all human beings were rational or good, there would always be people who would try to violate your rights. Since there would not be any government, you and others would have to defend your rights on your own. The result would be that in the state of nature, your rights and their enjoyment would be insecure. You would be in constant danger of losing them.

For Locke and the other natural rights philosophers, the great problem was to find a way to protect each person's natural rights so that all persons could enjoy them and live at peace with one another. Locke said that the best way to solve this problem in the state of nature is for each individual to agree with others to create and live under a government and give it the power to make and enforce laws. This kind of agreement is called the **social contract**.

As in all contracts, to get something, you must give up something. In the social contract everyone promises to give up the absolute right to do anything he or she has the right to do in a state of nature. In return, everyone receives the security that can be provided by a government. Each person consents to obey the limits placed upon him or her by the laws created by the government. Everyone gains the security of knowing that his or her rights to life, liberty, and property are protected.

Government, then, is the better alternative to an imperfect state of nature where some people will not obey the laws of nature. Government's purpose is to protect those natural rights that the individual cannot effectively secure in a state of nature.

What do you think?

1. If the purpose of government is to provide security for the rights to life, liberty, and property, under what circumstances, if any, should government be able to limit these rights?
2. What criteria should be used to determine when, if ever, government should be able to limit an individual's liberty to
 - believe as he or she wishes
 - practice his or her beliefs

- use his or her property
- associate with whomever he or she wishes

3. Imagine yourself living in a community where all order and authority have broken down. Violent lawlessness is widespread. Do you think **any** government is better than none? Explain your answer.
4. It has been said that since people are not equal in their intelligence and character, it is unjust for everyone to have the same rights. Do you agree? Be prepared to defend your answer.

Reviewing and Using the Lesson

1. Explain what is meant by each of the following ideas from the Declaration of Independence:
 - all men are created equal
 - people have certain rights that are unalienable
 - unalienable rights include rights to life, liberty, and the pursuit of happiness
 - governments are created to secure these rights
 - governments derive their just powers from the consent of the governed
 - people have the right to alter or abolish their government if it becomes destructive of the purposes for which it was created
2. What is meant by "the law of nature" or "natural law"? How did Locke try to establish or figure out what limitations it imposed on human conduct?
3. How did Locke use the idea of a "state of nature" to try to establish or figure out what the purpose of government should be?
4. What was Locke's view of human nature? How did it influence his ideas about what type of government is best?
5. What is meant by the term "social contract"? How is it connected to the idea that government derives its authority from the consent of the governed?
6. Do research to find out about the Mayflower Compact. Explain what it was, why it was created, and how it shows the connection between "social contracts" and the idea that government should be based on consent.

Mill's Utilitarianism

Read the following excerpt from John Stuart Mill's *Utilitarianism* and answer the questions at the end. Be prepared for class discussion.

On the present occasion, I shall, without further discussion of the other theories, attempt to contribute something towards the understanding and appreciation of the Utilitarian or Happiness theory, and towards such proof as it is susceptible of. It is evident that this cannot be proof in the ordinary and popular meaning of the term. Questions of ultimate ends are not amenable to direct proof. Whatever can be proved to be good, must be so by being shown to be a means to something admitted to be good without proof. The medical art is proved to be good, by its conducing to health; but how is it possible to prove that health is good? The art of music is good, for the reason, among others, that it produces pleasure; but what proof is it possible to give that pleasure is good? . . .

What Utilitarianism Is

A passing remark is all that needs be given to the ignorant blunder of supposing that those who stand up for utility as the test of right and wrong, use the term in that restricted and merely colloquial sense in which utility is opposed to pleasure. An apology is due to the philosophical opponents of utilitarianism, for even the momentary appearance of confounding them with any one capable of so absurd a misconception; which is the more extraordinary, inasmuch as the contrary accusation, of referring everything to pleasure, and that too in its grossest form, is another of the common charges against utilitarianism: and, as has been pointedly remarked by an able writer, the same sort of persons, and often the very same persons, denounce the theory "as impracticably dry when the word utility precedes the word pleasure, and as too practicably voluptuous when the word pleasure precedes the word utility." . . .

The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure. To give a clear view of the moral standard set up by the theory, much more requires to be said; in particular, what things it includes in the ideas of pain and pleasure; and to what extent this is left an open question. But these supplementary explanations do not affect the theory of life on which this theory of morality is grounded—namely, that pleasure, and freedom from pain, are the only things desirable as ends; and that all desirable things (which are as numerous in the utilitarian as in any other scheme) are desirable either for the pleasure inherent in themselves, or as means to the promotion of pleasure and the prevention of pain. . . .

. . . for if the sources of pleasure were precisely the same to human beings and to swine, the rule of life which is good enough for the one would be good enough for the other. The comparison of the Epicurean life to that of beasts is felt as degrading, precisely because a beast's pleasures do not satisfy a human being's conceptions of happiness. Human beings have faculties more elevated than the animal appetites, and when once made conscious of them, do not regard anything as happiness which does not include their gratification. I do not, indeed, consider the Epicureans to have been by any means faultless in drawing out their scheme of consequences from the utilitarian principle. To do this in any sufficient manner,

many Stoic, as well as Christian elements require to be included. But there is no known Epicurean theory of life which does not assign to the pleasures of the intellect, of the feelings and imagination, and of the moral sentiments, a much higher value as pleasures than to those of mere sensation. It must be admitted, however, that utilitarian writers in general have placed the superiority of mental over bodily pleasures chiefly in the greater permanency, safety, uncostliness, etc., of the former—that is, in their circumstantial advantages rather than in their intrinsic nature. And on all these points utilitarians have fully proved their case; but they might have taken the other, and, as it may be called, higher ground, with entire consistency. It is quite compatible with the principle of utility to recognise the fact, that some *kinds* of pleasure are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone.

If I am asked, what I mean by difference of quality in pleasures, or what makes one pleasure more valuable than another, merely as a pleasure, except its being greater in amount, there is but one possible answer. Of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference, irrespective of any feeling of moral obligation to prefer it, that is the more desirable pleasure. If one of the two is, by those who are competently acquainted with both, placed so far above the other that they prefer it, even though knowing it to be attended with a greater amount of discontent, and would not resign it for any quantity of the other pleasure which their nature is capable of, we are justified in ascribing to the preferred enjoyment a superiority in quality, so far outweighing quantity as to render it, in comparison, of small account.

Now it is an unquestionable fact that those who are equally acquainted with, and equally capable of appreciating and enjoying, both, do give a most marked preference to the manner of existence which employs their higher faculties. Few human creatures would consent to be changed into any of the lower animals, for a promise of the fullest allowance of a beast's pleasures; no intelligent human being would consent to be a fool, no instructed person would be an ignoramus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool, the dunce, or the rascal is better satisfied with his lot than they are with theirs. They would not resign what they possess more than he, for the most complete satisfaction of all the desires which they have in common with him. If they ever fancy they would, it is only in cases of unhappiness so extreme, that to escape from it they would exchange their lot for almost any other, however undesirable in their own eyes. A being of higher faculties requires more to make him happy, is capable probably of more acute suffering, and is certainly accessible to it at more points, than one of an inferior type; but in spite of these liabilities, he can never really wish to sink into what he feels to be a lower grade of existence. . . .

It may be objected, that many who are capable of the higher pleasures, occasionally, under the influence of temptation, postpone them to the lower. But this is quite compatible with a full appreciation of the intrinsic superiority of the higher. Men often, from infirmity of character, make their election for the nearer good, though they know it to be the less valuable; and this no less when the choice is between two bodily pleasures, than when it is between bodily and mental. They pursue sensual indulgences to the injury of health, though perfectly aware that

health is the greater good. It may be further objected, that many who begin with youthful enthusiasm for everything noble, as they advance in years sink into indolence and selfishness. But I do not believe that those who undergo this very common change, voluntarily choose the lower description of pleasures in preference to the higher. I believe that before they devote themselves exclusively to the one, they have already become incapable of the other. Capacity for the nobler feelings is in most natures a very tender plant, easily killed, not only by hostile influences, but by mere want of sustenance; and in the majority of young persons it speedily dies away if the occupations to which their position in life has devoted them, and the society into which it has thrown them, are not favourable to keeping that higher capacity in exercise. Men lose their high aspirations as they lose their intellectual tastes, because they have not time or opportunity for indulging them; and they addict themselves to inferior pleasures, not because they deliberately prefer them, but because they are either the only ones to which they have access, or the only ones which they are any longer capable of enjoying. It may be questioned whether any one who has remained equally susceptible to both classes of pleasures, ever knowingly and calmly preferred the lower; though many, in all ages, have broken down in an ineffectual attempt to combine both. . . .

I have dwelt on this point, as being a necessary part of a perfectly just conception of Utility or Happiness, considered as the directive rule of human conduct. But it is by no means an indispensable condition to the acceptance of the utilitarian standard; for that standard is not the agent's own greatest happiness, but the greatest amount of happiness altogether; and if it may possibly be doubted whether a noble character is always the happier for its nobleness, there can be no doubt that it makes other people happier, and that the world in general is immensely a gainer by it. Utilitarianism, therefore, could only attain its end by the general cultivation of nobleness of character, even if each individual were only benefited by the nobleness of others, and his own, so far as happiness is concerned, were a sheer deduction from the benefit. But the bare enunciation of such an absurdity as this last, renders refutation superfluous.

According to the Greatest Happiness Principle, as above explained, the ultimate end, with reference to and for the sake of which all other things are desirable (whether we are considering our own good or that of other people), is an existence exempt as far as possible from pain, and as rich as possible in enjoyments, both in point of quantity and quality; the test of quality, and the rule for measuring it against quantity, being the preference felt by those who in their opportunities of experience, to which must be added their habits of self-consciousness and self-observation, are best furnished with the means of comparison. This, being, according to the utilitarian opinion, the end of human action, is necessarily also the standard of morality; which may accordingly be defined, the rules and precepts for human conduct, by the observance of which an existence such as has been described might be, to the greatest extent possible, secured to all mankind; and not to them only, but, so far as the nature of things admits, to the whole sentient creation.²

²John Stuart Mill, *Utilitarianism* (London: Parker, Son, Dourne, 1863).

1. In the reading, how does Mill define the word *utility*?
2. What are two ways that things are desirable?
3. How are animal and human pleasures different?
4. Why do some people choose lower rather than higher pleasures?
5. How does Mill describe the happy life?

Excerpted from John Stuart Mill's "On Liberty"

Like other tyrannies, the tyranny of the majority was at first, and is still vulgarly, held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant—society collectively, over the separate individuals who compose it—its means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates; and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practises a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself. Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own. There is a limit to the legitimate interference of collective opinion with individual independence: and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.

The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. (That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to

do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right.) These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him, must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.

MILLIAN HARM PRINCIPLE: STUDY GUIDE

NAME: _____

Words to know:

TYRANNY:

MANDATES:

MAGISTRATE:

COMPULSION/COERCION:

SOVEREIGN:

1. What do you think Mill means by the “tyranny of the majority”?
2. What are the “political functionaries” to which Mill refers?
3. Summarize Mill’s Harm Principle in your own words:
4. Using the principle, what do you think would Mill say about the following? Why?
 - (1) a student who wants to bring a gun to school
 - (2) a gay couple wishing to marry
 - (3) a man who likes driving 100mph on the highway
 - (4) someone who wants to ride a motorcycle without wearing a helmet
5. What is your opinion of the principle? Is it a wise ethical guide or not? Why?

Kant's Categorical Imperative

Read the following excerpt from Immanuel Kant's "Fundamental Principles of the Metaphysic of Morals," and answer the questions at the end. Be prepared to discuss your answers.

Nothing can possibly be conceived in the world, or even out of it, which can be called good without qualification, except a Good Will. Intelligence, wit, judgment, and the other talents of the mind, however they may be named, or courage, resolution, perseverance, as qualities of temperament, are undoubtedly good and desirable in many respects; but these gifts of nature may also become extremely bad and mischievous if the will which is to make use of them, and which, therefore, constitutes what is called *character*, is not good. It is the same with the *gifts of fortune*. Power, riches, honour, even health, and the general well-being and contentment with one's condition which is called *happiness*; inspire pride, and often presumption, if there is not a good will to correct the influence of these on the mind, and with this also to rectify the whole principle of acting, and adapt it to its end. The sight of a being who is not adorned with a single feature of a pure and good will, enjoying unbroken prosperity, can never give pleasure to an impartial rational spectator. Thus a good will appears to constitute the indispensable condition even of being worthy of happiness. . . .

For as reason is not competent to guide the will with certainty in regard to its objects and the satisfaction of all our wants (which it to some extent even multiplies), this being an end to which an implanted instinct would have led with much greater certainty; and since, nevertheless, reason is imparted to us as a practical faculty, *i.e.*, as one which is to have influence on the *will*, therefore, admitting that nature generally in the distribution of her capacities has adapted the means to the end, its true destination must be to produce a *will*, not merely good as a *means* to something else, but *good in itself*, for which reason was absolutely necessary. This will then, though not indeed the sole and complete good, must be the supreme good and the condition of every other, even of the desire of happiness. Under these circumstances, there is nothing inconsistent with the wisdom of nature in the fact that the cultivation of the reason, which is requisite for the first and unconditional purpose, does in many ways interfere, at least in this life, with the attainment of the second, which is always conditional, namely, happiness. Nay, it may even reduce it to nothing, without nature thereby failing of her purpose. For reason recognises the establishment of a good will as its highest practical destination, and in attaining this purpose is capable only of a satisfaction of its own proper kind, namely, that from the attainment of an end, which end again is determined by reason only, notwithstanding that this may involve many a disappointment to the ends of inclination.

We have then to develop the notion of a will which deserves to be highly esteemed for itself, and is good without a view to anything further, a notion which exists already in the sound natural understanding, requiring rather to be cleared up than to be taught, and which in estimating the value of our actions always takes the first place, and constitutes the condition of all the rest. In order to do this we will take the notion of duty, which includes that of a good will, although implying certain subjective restrictions and hindrances. These, however, far from concealing it, or rendering it unrecognisable, rather bring it out by contrast, and make it shine forth so much the brighter.

I omit here all actions which are already recognised as inconsistent with duty, although they may be useful for this or that purpose, for with these the question whether they are done *from duty* cannot arise at all, since they even conflict with

it. I also set aside those actions which really conform to duty, but to which men have no direct *inclination*, performing them because they are impelled thereto by some other inclination. For in this case we can readily distinguish whether the action which agrees with duty is done from duty, or from a selfish view. It is much harder to make this distinction when the action accords with duty, and the subject has besides a *direct* inclination to it. For example, it is always a matter of duty that a dealer should not overcharge an inexperienced purchaser, and wherever there is much commerce the prudent tradesman does not overcharge, but keeps a fixed price for everyone, so that a child buys of him as well as any other. Men are thus *honestly* served; but this is not enough to make us believe that the tradesman has so acted from duty and from principles of honesty: his own advantage required it: it is out of the question in this case to suppose that he might besides have a direct inclination in favor of the buyers, so that, as it were, from love he should give no advantage to one over another. Accordingly the action was done neither from duty nor from direct inclination, but merely with a selfish view.

. . . That an action done from duty derives its moral worth, *not from the purpose* which is to be attained by it, but from the maxim by which it is determined, and therefore does not depend on the realization of the object of the action, but merely on the *principle of volition* by which the action has taken place, without regard to any object of desire. It is clear from what precedes that the purposes which we may have in view in our actions, or their effects regarded as ends and springs of the will, cannot give to actions any unconditional or moral worth. In what, then, can their worth lie, if it is not to consist in the will and in reference to its expected effect? It cannot lie anywhere but in the *principle of the will* without regard to the ends which can be attained by the action. For the will stands between its *à priori* principle, which is formal, and its *a posteriori* spring, which is material, as between two roads, and as it must be determined by something, it follows that it must be determined by the formal principle of volition when an action is done from duty, in which case every material principle has been withdrawn from it. . . .

Thus the moral worth of an action does not lie in the effect expected from it, nor in any principle of action which requires to borrow its motive from this expected effect. For all these effects—agreeableness of one's condition, and even the promotion of the happiness of others—could have been also brought about by other causes, so that for this there would have been no need of the will of a rational being; whereas it is in this alone that the supreme and unconditional good can be found. The pre-eminent good which we call moral can therefore consist in nothing else than *the conception of law* in itself, *which certainly is only possible in a rational being*, in so far as this conception, and not the expected effect, determines the will. This is a good which is already present in the person who acts accordingly, and we have not to wait for it to appear first in the result.

But what sort of law can that be, the conception of which must determine the will, even without paying any regard to the effect expected from it, in order that this will may be called good absolutely and without qualification? As I have deprived the will of every impulse which could arise to it from obedience to any law, there remains nothing but the universal conformity of its actions to law in general, which alone is to serve the will as a principle, *i.e.*, I am never to act otherwise than so *that I could also will that my maxim should become a universal law*. Here now, it is the simple conformity to law in general, without assuming any particular law applicable to certain actions, that serves the will as its principle, and must so serve

it, if duty is not to be a vain delusion and a chimerical notion. The common reason of men in its practical judgments perfectly coincides with this, and always has in view the principle here suggested. Let the question be, for example: May I when in distress make a promise with the intention not to keep it? I readily distinguish here between the two significations which the question may have. Whether it is prudent, or whether it is right, to make a false promise. The former may undoubtedly often be the case. I see clearly, indeed, that it is not enough to extricate myself from a present difficulty by means of this subterfuge, but it must be well considered whether there may not hereafter spring from this lie much greater inconvenience than that from which I now free myself, and as, with all my supposed cunning, the consequences cannot be so easily foreseen but that credit once lost may be much more injurious to me than any mischief which I seek to avoid at present, it should be considered whether it would not be more prudent to act herein according to a universal maxim, and to make it a habit to promise nothing except with the intention of keeping it. But it is soon clear to me that such a maxim will still only be based on the fear of consequences. Now it is a wholly different thing to be truthful from duty, and to be so from apprehension of injurious consequences. In the first case, the very notion of the action already implies a law for me; in the second case, I must first look about elsewhere to see what results may be combined with it which would affect myself. For to deviate from the principle of duty is beyond all doubt wicked; but to be unfaithful to my maxim of prudence may often be very advantageous to me, although to abide by it is certainly safer. The shortest way, however, and an unerring one, to discover the answer to this question whether a lying promise is consistent with duty, is to ask myself, Should I be content that my maxim (to extricate myself from difficulty by a false promise) should hold good as a universal law, for myself as well as for others? and should I be able to say to myself, "Every one may make a deceitful promise when he finds himself in a difficulty from which he cannot otherwise extricate himself"? Then I presently become aware that while I can will the lie, I can by no means will that lying should be a universal law. For with such a law there would be no promises at all, since it would be in vain to allege my intention in regard to my future actions to those who would not believe this allegation, or if they over-hastily did so, would pay me back in my own coin. Hence my maxim, as soon as it should be made a universal law, would necessarily destroy itself.

I do not, therefore, need any far-reaching penetration to discern what I have to do in order that my will may be morally good. Inexperienced in the course of the world, incapable of being prepared for all its contingencies, I only ask myself: Canst thou also will that thy maxim should be a universal law? If not, then it must be rejected, and that not because of a disadvantage accruing from it to myself or even to others, but because it cannot enter as a principle into a possible universal legislation, and reason extorts from me immediate respect for such legislation. I do not indeed as yet discern on what this respect is based (this the philosopher may inquire), but at least! understand this, that it is an estimation of the worth which far outweighs all worth of what is recommended by inclination, and that the necessity of acting from pure respect for the practical law is what constitutes duty, to which every other motive must give place, because it is the condition of a will being good in itself, and the worth of such a will is above everything.¹

¹Immanuel Kant, "Fundamental Principles of the Metaphysic of Morals," in *Literary and Philosophical Essays: French, German and Italian*, The Harvard Classics, vol. 32, ed. Charles W. Eliot (New York: P. F. Collier and Son, 1910), 305, 308-9, 311-15.

Kant Versus Mill

Discuss the advantages and disadvantages of Kantian ethics, and record the responses. Then read the "Cowboy Hat Caper," and answer the questions at the end.

1. Advantages of Kantian ethics

2. Disadvantages of Kantian ethics

"The Cowboy Hat Caper"

While on vacation in Texas, you and your friend, Jack, want to buy cowboy hats so that you can look like real Texans. So you decide to splurge and spend some unbudgeted money to buy authentic cowboy hats. Shopping at Manny's Hat Store, you both find hats that suit your needs. After you leave the store, Jack pulls a \$70 Stetson out of his raincoat. When Jack catches a surprised and disapproving look from you, he explains, "We spent a lot of money in that store, and the hats were overpriced. This hat could not have cost anywhere near \$70 to make. There's hardly any material to it! Stealing the hat is just my way of making things even."

3. Apply the ethical theory of Mill to the problem.

4. Apply the ethical theory of Kant to the problem.

5. What can you conclude about Jack's action?

6. What is the best way to decide an ethical issue?

A Meeting of Minds

Hypothetical Interview with Niccolò Machiavelli

Interviewer: Please begin by telling our readers when and where you were born.

Machiavelli: I was born in 1469 in the Italian city of Florence.

Interviewer: Are you a political philosopher?

Machiavelli: I have written poetry, plays, short stories, and letters. My first love, however, is politics. In my book *The Prince* I teach my view of politics.

Interviewer: Why do you think government is necessary?

Machiavelli: People are never free of ambition; desire is endless. Because people desire but cannot get everything, their dissatisfaction is inevitable. This leads them into conflict, unless there is a stronger force to restrain them. Selfishness is such that a person will sooner forgive another for murdering his father than for depriving him of his inheritance. People will always be evil unless forced to do good.

Interviewer: What kind of "stronger force" do you propose?

Machiavelli: In *The Prince* I outline a plan for absolute rule in the form of one person—the prince. Because people are inclined to evil, the ruler must suppress them. The ruler must be all powerful and feared by the people. He must possess qualities of both a human being and a beast. As a beast, he should be both a fox and a lion: the fox can detect traps, as the lion cannot; the lion can frighten the wolves, as the fox cannot. He should strive to be a person of his word only when it is in his interest to do so. The ruler should seem to be merciful, faithful, humane, and religious, but he ought not to be so. Such characteristics limit a ruler and make him a danger to himself. He must know how not to be good.

Interviewer: Is it fair to say that you believe the end justifies the means?

Machiavelli: Yes. For the sake of a country's safety, there can be no reservations regarding an action or policy's justice or injustice, humanity or cruelty, honor or shame. The ultimate consideration can only be what will preserve the life and liberty of the country. We cannot ignore what people are and only consider what they ought to be. Only the strong ruler, possessing wisdom, stable judgment, and power, can curb the corruptness of human beings and maintain peace.

A Meeting of Minds

Hypothetical Interview with Thomas Hobbes

Interviewer: Please tell us where and when you were born.

Hobbes: I was born in 1588 in England. My mother gave birth to me upon hearing that the Spanish Armada was approaching England. In a way, it is as if my mother gave birth to twins: myself and fear.

Interviewer: Are you a political philosopher?

Hobbes: I am a political philosopher who draws from psychology and the new science of nature. I have written history, as well as about law and politics. My political philosophy is probably best presented in my book *Leviathan*, published in 1651.

Interviewer: Why is government necessary?

Hobbes: Without authority, human beings would live in a natural condition. In this condition, all persons have equal right to pursue the power, possessions, and resources necessary for a good life. Every person can use power to preserve life in any way deemed necessary. Every person's endless striving for power creates a predicament: people are necessarily drawn into competition. This leads to fighting and war, for the surest way to obtain power over a competitor is to kill, subdue, supplant, or repel the other person. Life in this state of nature is solitary, poor, nasty, brutish, and short!

Interviewer: What kind of government or political authority do you propose?

Hobbes: First, I want to talk about how government comes about. Human beings cannot long live in a state of anarchy and fear. The passion that moves people to leave this state of conflict and establish peace is the fear of violent death. This is the law of nature—a general rule, discovered by reason, which forbids a person to engage in self-destructive actions or to take away the means of preserving life. I prefer rule by a powerful monarch who creates conditions under which subjects can work and live in peace and harmony. The monarch must be strong and feared but also subject to the law of nature. If the monarch does not provide for peace, the people have a right to seek a new ruler.

Interviewer: By forming a peaceful society, do people give up rights?

Hobbes: People must give up the rights that brought them into conflict with others. Some force is needed, some sword, some person or persons standing outside the community to impose peace and compliance within the dictates of reason. People give up their rights and powers to this one person or sovereign assembly so that they, who by nature turn against each other, can become one society. Only in this way can the plurality of voices become one voice.

A Meeting of Minds

Hypothetical Interview with John Locke

Interviewer: Please begin by telling where and when you were born.

Locke: I was born in 1632 in England.

Interviewer: You are famous as a philosopher and a political philosopher.

Locke: Yes. Because I know your interest is in political philosophy, you would be best served to read my book *Two Treatises of Government*.

Interviewer: Why is government among people necessary?

Locke: By nature people are free. Reason, which is the law of nature, teaches people that because all are equal and independent, no one ought to harm another in life, health, liberty, or possessions. The law of nature obliges every person to act so as to preserve himself and others. A person has no right to another's person or possessions. A person can be secure in his own safety and possessions only so long as others recognize that they have no right to them.

The state of nature presents a problem, however. People are independent and equal, but also insecure because there is no authority to judge violations of nature's law and punish offenders. Each person is his own interpreter and enforcer of nature's law. Inevitably, each person is partial to his own case; people become blind to any interpretation of reason's law but their own and begin to act against the law. The state of nature is then transformed into a state of war.

Interviewer: What remedy do you suggest for this problem?

Locke: Being by nature free, equal, and independent, people cannot be subjugated to the political power of another. They must consent to unite into a community for comfortable, safe, and peaceful living. When any number of people have consented to make one community or government, they make one political body. In this body, the majority has a right to act.

Interviewer: You believe in government by majority rule then?

Locke: Yes. The majority must choose the type of government deemed most appropriate: a democracy, an oligarchy, or even a monarchy. The government chosen makes little difference because all governments are bound by trust put in them by people and the law of God and nature. Governments are obligated to (1) govern by established laws, (2) enact only laws necessary for the good of the people, (3) not raise taxes on property without the people's consent, given by themselves or their deputies, and (4) not transfer the power of making laws to anyone else or to place it anywhere but with the people.

A Meeting of Minds

Hypothetical Interview with Jean Jacques Rousseau

Interviewer: Please tell us where and when you were born.

Rousseau: I was born in Geneva in 1712.

Interviewer: You are said to be one of the great modern political writers.

Rousseau: You are very kind. My political arguments are best expressed in my book *The Social Contract*, published in 1762.

Interviewer: Why is government necessary?

Rousseau: Let me begin to answer the question by stating that the state of nature, as defined by Thomas Hobbes, no longer exists, perhaps never did, and probably never will exist. People are not basically selfish and evil. Although interested in self-preservation, they are basically compassionate and not the enemy of their kind. Government is necessary because people are born free, yet everywhere they are in chains. What I mean is that people are born free to do what their strength and liberty allow. This freedom results in a state of insecurity. To attain true freedom and stability, people must give up individual rights to the community. By agreement or contract, everyone gives up rights and no one gains power or advantage. Rights are given up not to a person or persons, but to the entire community, of which the individual is a part. Everyone gains the equivalent of what he loses and the increased force to conserve what he has. In giving himself to all, he gives himself to no one. Each of us puts his person and power under the supreme direction of the general will. Each member is an individual part of the whole.

Interviewer: What type of government do you think is best?

Rousseau: The social contract, or act of giving up individual power in favor of general will, creates a collective body that receives its unity, common ego, life, and will from this act. All participants are members of one body and function as a public person. Before, they were only individual persons. The general will is the interest of the community. Nothing may legitimately be done against that interest; otherwise a society ceases to be a community and becomes once again a mere collection of individuals. I believe that a democratic society or state, but not a democratic government, is best. The best government is one in which a few persons, under the control of the general will of the whole people, execute the laws and maintain civil and political liberty. Every society must have government, but there is no single form that is everywhere the best.