

# TESTING ETHICAL THEORIES: THE RIGHT AND THE GOOD AGAIN

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## I

W. D. Ross argues that right like good is a unique non-natural property that is known immediately and intuitively. He rejects Moore's claim in *Principia Ethica* that it is immediately evident that right means productive of the greatest possible good. 'The right' and 'the optimific' are not identical in meaning. Right is not even to be determined in terms of good alone. To say 'this is a right act' means, according to Ross, 'this act is the act that ought to be done'.<sup>1</sup> Obligations are not entirely dependent on axiology for there are *prima facie* duties (conditional duties) that are directly 'suitable to a situation' even if they are not productive of as much good as some other act open to the agent.

I would like to argue that the deontologists are justified in maintaining that 'right' does not mean 'morally good', or 'productive of the greatest possible good', but that the deontologists have not succeeded in refuting the ideal utilitarian claim that what *makes* an act right is that which, under the circumstances, produces the greatest possible amount of good and that in trying to sort out that issue we are led into what appears at least to be intractable issues of what Rawls calls 'moral methodology'. We are forced to ask very difficult questions about what finally we appeal to in testing an ethical theory and, indeed, even in accepting an ethical claim.

Let us first consider the meaning of right. Ross says that 'this is a right act' means 'this act is the act that ought to

<sup>1</sup> W. D. Ross, "The Meaning of Right", in *Readings in Ethical Theory*, W. Sellars and J. Hospers (eds.), First Edition, p. 164.

be done'.<sup>2</sup> Ross's refutation that a 'right act' does not mean a 'morally good act' runs as follows: morally good acts proceed from a good motive. But ought implies can and I cannot by choice produce a motive. I either have or do not have the motive. I cannot, then, be obligated to act from a good motive. I can only have a duty to perform certain acts not a duty to perform them from a sense of duty. If this is the case then 'right' is synonymous with 'what is my duty' and is not synonymous with 'morally good'.<sup>3</sup>

In criticizing Ross's view that there are sometimes special obligations that make a given act right even if it is not the most probably optimistic act, I shall limit myself to one criticism. It could be argued, on prior epistemic grounds, that Ross's frequent appeals to self-evidence and to *synthetic a priori* truth for particular obligations is illicit or that his appeal to the moral consciousness of the 'best people' as the ethical foundation on which we must build is ethno-centric. But I shall not press these objections, but shall content myself with pressing one that Ross himself has tried hard to meet, and thus the argument will stay on grounds that would seem relevant to Ross.

It is certainly true, as Ross contends, that ought (at least in an ethical sense) implies can and that it is our obligation only to make a serious self-exertion to perform an act and not necessarily actually to perform an act from a good motive.<sup>4</sup> This, however, rids us only of the contention that what makes an act right is that it is morally good, but good (basic value) is used in a wider sense than morally good. Granted, at least for the sake of this discussion, that a 'right act' means 'an act that ought to be done', it still remains at least reasonable to believe that if we ask which of two or more acts ought to be done, we must—unless we wish to be arbitrary—appeal to some criterion in deciding that. The deontologist with his specific obligations can offer us no criterion, but

<sup>2</sup> *Ibid.*

<sup>3</sup> This argument has not hit rock bottom here because it could conceivably be argued that 'optimistic' entails in its meaning 'possibility'.

<sup>4</sup> W. D. Ross, *Foundations of Ethics*, p. 160.

an axiological ethics which argues that an act is right which produces the maximum amount of good (basic value) gives us such a criterion. Unless we appeal to this criterion or some alternative criterion (Ross offers us none), we have no ground to judge which of two acts ought to be done.

However, Ross carries the argument a step further. Ross argues that the contention that the right act is optimific and the optimific is the right act is neither apprehended immediately, as Moore thinks, nor is it an empirical generalization that can be supported by inductive evidence. A crucial test, that Ross actually utilizes in conducting his case here, consists in getting us to reflect on the following schematic ethical situation involving two alternative acts: an act A, that involves keeping a promise, and an act B, that involves breaking a promise, where the total resultant good of act B, however, is *slightly* greater than the total resultant good of act A. Ross agrees with the utilitarians that where the disparity in terms of resultant total good between two such acts is considerable, breaking the promise, if it results in a much greater good, is the morally obligatory thing to do, but Ross thinks in the above case, where the good of the act B is only slightly greater, he has a genuine instance of a right act that is not optimific. Yet utilitarians have responded that this view arises from an overly narrow view of the utilitarian weighing of good consequences. In determining what act should, everything considered, be done, a thorough utilitarian would certainly consider the weight of promise-keeping on individual character and its value to the whole of the community. These so-called special obligations that Ross draws our attention to are valid factors in determining what would be the most probably optimific. Ross's crucial test then collapses.<sup>5</sup>

However, Ross is well aware that such a response will be made and he has a reply to it. We need to see whether we can ferret out whether it is an adequate response. He argues,

<sup>5</sup> W. D. Ross, "What Makes Right Acts Right?" in *Readings in Ethical Theory*, W. Sellars and J. Hospers, (eds.), First Edition, p. 190.

against such a utilitarian response, that cases can arise where, even after we have carefully weighed the utilitarian value of keeping one's promises and the whole practice of reinforcing promise-keeping, the value of integrity and the like, still a very *slightly* greater total resultant utility (greater resultant total value) will accrue to the act involving the breaking of the promise than to the act involving the keeping the promise. The consistent utilitarian must therefore claim that in that situation we should break the promise. Ross responds that where only *slightly* greater utility would result we should not. We, in such a situation, appreciate that it is fitting to be for the act that involves keeping the promise. Nothing else squares with our reflective moral experience, our considered specific moral convictions. And it is these moral judgements, rooted in our experience of life, which are more reliable as a guide to action than any abstract and general moral theory. It is more reasonable and more morally appropriate to so commit ourselves than to allow the abstract moral theories to so commit us. Where utilitarian theory is so at odds with our actual moral experience, it is the theory which should give way. It is our most firmly embedded moral convictions which should be our final test of theory and not our theory which should be the final arbiter of the legitimacy of our specific moral convictions.

## II

It is surely natural to respond that in different cultures, in different historical periods and even among different classes within the same culture there will be different and sometimes conflicting firmly embedded considered moral convictions. When we recognize this and further recognize as well that these differences in even deeply embedded considered convictions do not turn on any at least very plain differences in beliefs about empirical matters of fact, it is reasonable to be perplexed about how we can so confidently continue to appeal to our own firmly embedded moral convictions as

the final test for the adequacy of our moral theorizing where our theoretical moral conceptions are (1) coherent, (2) do not imply false factual beliefs and (3) mesh together nicely with our other conceptions. Suppose I have a deeply embedded moral conviction S but I have a moral theory P which I recognize is coherent, does not imply any false factual beliefs and—S aside—fits in nicely with my other conceptions and convictions. Suppose I also recognize that there are other people with moral theory P or with moral theories Q, Z, or R who do not have moral conviction S and in some instances have a deep and firmly embedded moral conviction not-S. If I recognize that such a situation obtains why should I stick with S through thick and thin and modify P or even abandon P? Why is it that I should continue to regard as fundamental, S (one of my firmest considered moral convictions) and be prepared to modify my theory to match my conviction? For Ross, and for Broad and Pritchard as well, I should stick with my conviction, particularly when it matches, as it does in this case, with my other specific moral convictions? On such an account such moral theories (normative ethical and metaethical) as we have must match, must square with, such reflective considered convictions. If they do not, the theories, not the convictions, should be modified or abandoned.

Why should we go in that direction? Why not stick with the theories? How, particularly given my recognition that not every reflective person will share my conviction concerning S, or indeed many of my other firm convictions, including perhaps some of my firmest, can I feel so confident about sticking with these convictions, trying to require the moral firmament to turn on them? The answer that is usually forthcoming is that such convictions play in moral theorizing a role analogous to that which observation plays in theorizing in science. Since there is no independent appeal in ethics to the facts, to that to which a moral statement would correspond, there is no way of directly checking out the truth of an appeal to our moral convictions such as there

is for checking out the truth of our belief that Jones is being tortured. Such a factual belief can be checked out in a way moral belief cannot. There is no such an observational test for the truth of even our very firm moral belief that it is vile to torture the innocent. That Jones is being tortured can be, apart from any appeals to convictions, established to be true or false by observation; that it is vile to so torture Jones cannot. Because that is true, deeply embedded considered convictions come to have this central role in any quest for justification in ethics. They provide, it is claimed, the only reliable constraints on our theorizing. They are to moral theorizing what an appeal to observation is to factual theorizing.

Must we, or should we accept, such a methodological claim? Why, we can ask, not replace them in their role as a final court of appeal either (a) by an appeal to what we like or dislike or want or do not want, or (b) by what answers to our interests or does not answer to our interests?

I shall consider (a) first. Suppose my S (my firmly embedded moral conviction) is that I should keep my promises. Suppose one of those promises is that I should read a certain student's paper and return it to him the next day. Suppose late that evening I remember that I promised, but that by then I am rather tired and would, instead, rather watch television. I also know that I could plausibly put him off with an excuse. Why should I not do what I like rather than stick with my conviction S? To say because I feel it would be wrong only reasserts that I am going to stick by my conviction. But why is that, or is that, the rational thing to do or the thing I should do? Why not test the viability of firmly embedded moral convictions against human wants: against those things we like and dislike or at least reflectively like or dislike?

An ambiguity in 'wants' may cause confusion. Having promised to look at my student's paper, I may, perfectly intelligibly, say to my wife 'I can't watch the idiot box, I want to finish a paper before I go to bed'. That want, unlike 'I

want a hot chocolate before I go to bed', does not connote anything about what I would *enjoy* doing or having. In that sense it has nothing to do with what I would like (enjoy). Rather, 'want' in that context has a moral connotation. To so use 'want' is to give to understand that it is something I believe I ought to do. The sentence in which it occurs is itself an expression of a considered conviction; it is not something, as in the cases where it connotes enjoyment, which may connote something distinct from and perhaps in conflict with considered convictions.

With this ambiguity cleared up, we can see that what is at issue with (a) is a matter of setting considered convictions against what we enjoy or like having. Why test our moral theories against such convictions rather than against likes and dislikes? Why be so anti-hedonistic? What could be better than that as many people as possible could have as much as possible of whatever it is that they enjoy? We should not give such a pride of place to considered convictions but should try to ascertain what people enjoy and maximize that. But there is a catch in the above formula with 'as many people as possible' and with 'as much as possible'. Sometimes it is empirically impossible to give everyone what they want. X's desire to have a quiet cross-country skiing trail at Bingo Pass is not compatible with Y's desire to run his snowmobile there. Not everyone's desires can always be satisfied—they are not always compossible—and in deciding what then to do, we need principles, seemingly resting on moral convictions, which do not simply appeal to what we enjoy. I know I would enjoy more going to bed or listening to music than reading that term paper as I promised and I may be quite unsure what would maximize the greatest amount of pleasure all around, but I give *independent* weight to my considered convictions, in this case to my reflective sentiments about promise-keeping. (This indeed is what we—or most of us—do do, but how do we know, or do we know, that that is what we should do?)

Isn't resistance to this a replay of hedonism and isn't it

plain enough that we have little reason for believing that only pleasure and enjoyment are intrinsically good or, even if such are the sole intrinsic goods, isn't it even more evident that we do not have good grounds for believing that they are the sole ends that are *worth* achieving for themselves? Perhaps it is just fitting that certain things be done even if they are not the most pleasure or utility maximizing alternatives? A sense of one's self-identity or self-knowledge or integrity may also be intrinsically good and something that we *should* prize independently of whatever utility may accrue to them. That does not mean that maximizing considerations are not relevant in appraising total situations. (Recall Nozick's cases where people who are less rationally self-aware are still happier than people who have a greater awareness. Is enjoyment or happiness the only thing we want for its own sake?<sup>6</sup>) If human beings lived in thorough self-deception about themselves and yet were still happier than they would otherwise be, is that all right? Is that a state of affairs that we think ought to obtain? If unknown to you someone photographs you in a moment of intimacy and then, again unknown to you, sells the photographs to the porno dealer in the Upper Volta, providing widespread pleasure there, is that all right? I think most people's considered convictions, firm bedrock moral attitudes, would be such that they would not think those things right. But again why accept as finally decisive considered convictions rather than likes and dislikes, what provides enjoyment and its opposite? What harm, a hedonistic utilitarian would ask, do such things do? Harm or no harm, the pluralist deontologist will reply, such things are wrong. And it isn't that they are wrong because they would undermine self-respect, for, given the lack of knowledge involved, they do not undermine self-respect. To respond that people, where possible, should have full knowledge of their life situation is to introduce a considered conviction, not that firmly shared, and it is, as well,

<sup>6</sup> Robert Nozick, "On the Randian Argument", *The Personalist*, Vol. 52 (1971), pp. 297-8.

to introduce considerations other than likes and dislikes and thus in effect to capitulate to those who would say that appeal to considered convictions is bedrock.

### III

Let us next consider alternative (b). Instead of appealing to wants, why not appeal to interests as bottom line in moral argument? Let us not, except as a sometimes useful heuristic device, appeal to considered convictions but let us appeal to what answers to human interests instead. Interests are not to be identified with wants. I may plainly be mistaken about my interests in a way it is not so clear that I can be mistaken about my wants: 'I don't want to exercise but it clearly is in my interests to' and 'I want another drink but it's clearly not in my interests to have it' indicate that in talking about interests we are not talking about wants or even about what are our strongest wants. So (b) is not (a) all over again in disguise.

How do we decide what is in our interests? To say that they are things we genuinely need only puts off the bad day, for how do we decide what we *genuinely need* or even what it is that we just plain need? Needs and interests are closely linked and in some way are distinct from wants and desires, though what exactly they are is hard to say.<sup>7</sup> Perhaps we can rightly say that what is in our interests is what we would continue to want were we vividly aware of the causes of our wanting it, what it means to have it and the consequences of satisfying those desires. Interests are in short important wants, where 'important' would be cashed out as I just have. Interests may not be things—like that second helping of desert—that we particularly want at the moment, but we would want them if we had full knowledge under vivid recall. (We may need to add—and surely if we do it makes for problems—something about being rational.)

<sup>7</sup> Kai Nielsen "On Human Needs and Moral Appraisals", *Inquiry*, Vol. 6 (1963) and "Morality and Needs", *The Business of Reason*, J. J. MacIntosh and S. Coval (eds.). See also the collection edited by Ross Fitzgerald, *Human Needs and Politics*.

What so answers to human interests rather than what squares with our considered convictions should be our decisive test for the adequacy of moral theories or abstract moral claims. But suppose, a critic will surely ask, that it genuinely answers to the interests of a given community to run rough-shod over the rights of a small, weak and despised minority, e.g. Indians who have treaty rights to land where the white community wants to engage in land development. Does it follow that such individuals are so dispensable simply because we have established that human interests will be maximally satisfied by so acting? Is that taking rights seriously? Again our considered convictions conflict with such an appeal to interests, though the pluralistic deontologist needs to face the counter that he should remember that calculations of interest remain relevant because we should acknowledge (1) that rights are defeasible and (2) that it is questionable if an individual, after the fashion of *Michael Kohlhaas*, should insist on his rights though the heavens fall.

However, Ross could, and indeed should, retort that, because action A satisfied interests to a *slightly* greater extent than action B, where A also violated someone's rights and B did not, that simply the fact of such a marginally greater utility maximizing would not settle the issue concerning whether A was the right thing to do *tout court*. Given the acceptance of our ordinary moral thinking it is very questionable indeed whether such utilitarian thinking would be accepted. But again this just comes back to the fact that the person making such an appeal gives this overriding weight to firmly embedded moral convictions, but what is being questioned is why do that when doing so does not answer to our interests—to the interests of people generally?

We seem to be in a deadlock here and we will not escape it by saying 'It would never be in our *genuine* interests to run roughshod over the interests of anyone'. That will not do because that is in effect to determine what is in our *genuine* interests or *true* interests by appealing to our *considered moral convictions*, but someone, sceptical of so treating an

appeal to our considered convictions, could resist such a *persuasive* and in effect rethorical implicit definition or delineation of interest by the emotive qualifiers 'genuine' and 'true' and claim that plainly some things which did not square with the considered convictions of moral agents did all the same answer to their interests.

So the question remains: why give such weight to deeply embedded considered convictions when they conflict with general moral theories systematically elaborated and in many ways very plausible? Why abandon utilitarianism, where reasoning in accordance with it does adequately answer to our interests because utilitarianism does not square with some of our very firmest considered convictions? *Perhaps* we are too affected by early 'deontological socialization' here—perhaps elements of a moral ideology enter in and irrationally, or at least non-rationally, persuade us to accept principles that are both groundless and arbitrary.<sup>8</sup> But, ideology and the false consciousness and distorted understanding of social reality that goes with it, could attach to the abstract utilitarian principles too. Two can play that game and cry wolf about ideology. Whether we stick with considered convictions or accept interests as an even more fundamental court of appeal, what needs to be shown is that either appeal must involve a mistaken understanding of social reality. It is not very evident what would show that or even how such a conception applies here. Moreover, in any domain justification must have an end or it wouldn't be justification and in morals the end point does not consist in

<sup>8</sup> We should not forget that there are problems, linked with questions about the 'genetic fallacy', about appealing to such considerations here. John Anderson's remarks about Marx should be kept in mind in this context. John Anderson, *Studies in Empirical Philosophy*, pp. 314-327. (For a sympathetic general placement of Anderson that would help make his striking remarks here more accessible, see John Passmore "The Anderson Legend", *Times Literary Supplement*, April 9, 1976, p. 415.) However, on the other side, the work of Jürgen Habermas, and particularly his *Knowledge and Human Interests*, should make us cautious about talk of the 'genetic fallacy'. Moreover, we should not conclude that because a principle is groundless that it is therefore irrational, arbitrary or reflectively unacceptable. Not everything we reasonably believe we believe for a reason.

simply observing certain fundamental moral utterances to be true as we can observe that the pencil is red and so ascertain the truth of the claim 'The pencil is red'. There is no such test for 'Abortion is evil', 'Capitalism ought to come to an end' or even for 'Pleasure is good' and 'Promises are to be kept'. I think our common moral thought—the reasoning implicit in our actual practices of life—is likely to incline us to acceptance of pluralistic deontology, but should we give it such weight in the face of the greater simplicity of utilitarianism, particularly when utilitarian thinking does have a very considerable plausibility and does not conflict with, and indeed very well accounts for, many of our deeply embedded moral convictions? Classical and repeatedly contested claims of moral theory hang on this issue, but, as far as I can see, the issue remains thoroughly contested with little more than the hint, and that uncertain, that the bed-rock appeal to our considered convictions appears impossible reasonably to bypass, in spite of its cultural variability, and no matter how persistent and genuine our fears of moral ideology.

## RESUMEN

En este artículo, Kai Nielsen se propone discutir la refutación hecha por W. D. Ross a la suposición de Moore de que un acto justo es lo mismo que un acto que "produce el mayor bien posible". Para Ross un acto justo es aquél que "debe llevarse a cabo" independientemente de la cantidad de bien que produzca. Lo que Nielsen pretende argüir es que, si bien Ross tiene razón en pensar que "acto justo" no es lo mismo que "acto moralmente bueno", no logra, sin embargo, refutar la idea utilitarista de que lo que *hace* que un acto sea justo es aquello que nos proporciona, bajo ciertas circunstancias, la mayor cantidad de bien.

La preocupación de Nielsen está, pues, en encontrar un criterio útil para discernir, entre uno o más actos, cuál debe ser o no ejecutado. Este criterio ha de ser proporcionado, piensa Nielsen, principalmente por los axiólogos éticos y no por los deontologistas, que se encuentran absortos en otro tipo de obligaciones.

El criterio que Ross utiliza para discernir entre dos o más acciones es aquél que apela a las convicciones morales que se basan en la experiencia concreta de los hombres. Por ejemplo: si tenemos que decidir entre la acción A, que consiste en sostener una promesa, y la acción B, que consiste en romperla, y siendo el caso de que el bien acarreado por B es sólo ligeramente mayor al bien acarreado por A, tendríamos, según Ross, que decidimos por ejecutar A. Esta conclusión, no obstante, está en desacuerdo con la teoría utilitarista (y con la concepción de Moore) según la cual debemos ejecutar siempre la acción que nos proporcione el mayor bien.

Ross basa su punto de vista en la idea de que, siendo nuestras convicciones morales más arraigadas las que nos hacen inclinarnos por A, debemos seguirlas, pues ninguna teoría abstracta de la moral puede guiarnos mejor para la acción que este tipo de juicios. Sin embargo, el criterio de Ross parece no resultar tan sólido cuando consideramos la cantidad de grupos sociales y culturales que sostienen diferentes convicciones morales, tantas veces contradictorias entre sí. Esto lleva a Nielsen a preguntarse lo siguiente: Si tengo una teoría P suficientemente coherente y adecuada a los hechos, la cual resulta compatible con todas mis convicciones, excepto con una convicción S firmemente arraigada en mí, ¿qué debo hacer? ¿Debo modificar y aun deshacerme de mi teoría P para seguir siendo fiel a mi convicción S? Parece absurdo, sin embargo, permanecer aferrado a una creencia que no encaja ni con la teoría satisfactoria P ni con muchas

otras teorías morales perfectamente articuladas y plausibles que sostienen otras personas razonables. ¿Por qué no buscar entonces —pregunta Nielsen— otro tipo de criterio para probar nuestras teorías morales? ¿Por qué no poner, en el lugar de nuestras convicciones firmemente arraigadas, nuestros gustos y deseos, por ejemplo, o nuestros intereses?

El artículo de Nielsen se propone pues, considerar estos dos criterios alternativos y enfrentarlos con la proposición de Ross de que cualquier teoría moral que esté en conflicto con nuestras convicciones morales concretas debe de ser modificada o abandonada.

[*Beatriz Quintero*]