Autonomy as Creative Action

Reconciling human commonality and particularity

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Abstract

Reconciliation of human plurality, with the commonality requisite for egalitarian political order, is arguably the central question confronting political thought today. The thesis is a response to Hannah Arendt's insight that in the wake of the twentieth-century demise of metaphysical ultimates, we must affirm human capacity for autonomous judgment as fundamental to sustaining a world 'fit for human habitation'. It consists of a theory of autonomy (or practical reason) designed to fully address pluralism, historicism and the critique of identity/difference. In the light of Onora O'Neill's constructivist reading of Kantian reason, autonomy as 'creative action' is defended as the minimal human commonality which must be presupposed, to account for trans-cultural justice grounded in communication rather than coercion.

The account of autonomy employs Kant's notion of the 'unconditioned': freedom from determinate causes; that which is common to all by virtue of being particular to none. Kant's merely formal concept is reconceived as a substantive experience within the world: the momentary suspension of existing cultural forms, identified as both a formal and substantive prerequisite to overcoming prejudices, and the achievement of trans-cultural communication. Building on Hans-George Gadamer's tradition-dependent notion of hermeneutic judgment, creative action consists of first 'receptive attention', the suspension of existing understandings, pre-conceptions etc., and open receptivity to what is there, and second, 'responsive judgment', revitalisation of authoritative standards internal to a 'vital sphere of practice' – a realm of human activity whose authoritative standards are constituted through creative action. Creative action is defended as a minimal, generic prerequisite for the realisation of any transcendent value (such as truth, justice and beauty) within a vital sphere of practice. This ideal of autonomy coheres with a pluralist ideal of society as a web of equal, autonomous yet interdependent vital spheres of practice.

A distinctive feature of the thesis is that it provides, in addition to a maximally-capacious account of autonomy, a radically pluralist ontological and epistemic framework. Contemporary political thought embracing human plurality and difference has for the most part been wary of metaphysical ultimates, opting for epistemic abstinence and avoiding explicit metaphysical commitments. I argue,

however, that a substantive, philosophical account of the possibility of trans-cultural justice requires admission of that which transcends the culturally-conditioned, as well as adherence to some notion of philosophical truth. As western thought has inherited from Platonism and the Judeo-Christian tradition a view of truth as monological, universal and unchanging, radical, pluralist revisions are required. Within the proposed two-tiered epistemology, creative action takes the place of reason. This epistemic framework retains the transcendent content of truth, while fully acknowledging the cultural-relativity of particular socio-cultural forms. It allows the theory to stand as a substantive, philosophically-vindicated theory of autonomy, but without rendering it vulnerable to post-structuralist charges of cultural-imperialism.

The thesis shows that the universalist, egalitarian commitments of the Kantian tradition can be reconciled with strong commitment to difference and diversity, but only if the philosophical and political realms abdicate their traditional positions of privilege vis a vis other spheres of practice.

I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

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Lisa Hancock

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Preamble

This thesis is written in response to Hannah Arendt's reflections on the demise of metaphysical ultimates: twentieth-century totalitarianism 'has brought to light the ruin of our categories of thought and standards of judgment'. We now live in a 'topsy-turvy world', a world in which we can no longer 'find our way by abiding by the rules of what once was common sense'.[1]

Arendt was a student of philosophy who fled Nazi Germany for France and then emigrated to the United States as a Jewish refugee. Her insights into the vulnerability of 'metaphysical ultimates' reflect her experience of war-torn Europe and Nazi totalitarianism. Under the Nazi regime there were no

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[1] Hannah Arendt, 'Understanding and Politics', *Partisan Review,* 20, 1953, pp49, 52-64, quoted in Ronald Beiner, 'Hannah Arendt on Judging', *Hannah Arendt, Lectures on Kant's Political Philosophy*, ed. Ronald Beiner The Harvester Press, Sussex, 1982, p95. I open with reference to twentieth-century totalitarianism, recognising that the concept of totalitarianism is no longer as central to political thought as it was in the wake of the Nazi and Stalinist regimes. Analysis of the erosion of civil society and public values has shifted away from the mid-twentieth-century concern with the brutal, overt forms of oppression characteristic of 'classic' totalitarianism, to focus on more covert, systemic processes, both within the now fallen neo-totalitarian, Soviet-type regimes of eastern Europe, as well as post-industrialised liberal states. (See for example Vaclav Havel, 'The Power of the Powerless', trans. Paul Wilson, *The Power of the Powerless*, ed. John Keane Hutchinson, London, Melbourne, 1985; Andre' Gorz, *Critique of Economic Reason*, trans. Gillian Handyside and Chris Turner Verso, London, 1989; Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* Blackwell, Oxford, 1983. Indeed, Arendt herself identifies the bureaucratic, technocratic, and depoliticised structures of modern life, which increasingly render citizens less discriminating, less capable of critical thinking, and less inclined to assume responsibility, as key social dangers (Beiner, 'Hannah Arendt on Judging', p113). In spite of these developments, however, it remains that Nazi-totalitarianism stands as a most powerful illustration of the social consequences of individuals abdicating from their responsibility for judgment.

shared values to which one could appeal to galvanise public support for the Resistance.

Arendt came to public prominence over her coverage of the trial of Nazi war criminal Adolf Eichmann, convicted for his role in the transportation of tens of thousands of German Jews to the death camps. Over several months in the journalists' gallery in the Jerusalem court, Arendt observed that Eichmann exhibited neither a sense of personal responsibility for his actions, nor remorse for what he had done. Arendt also witnessed the tenor of the Jewish prosecution's attack on Eichmann, devoted in large part to demonising his person. This attack enjoyed the support of a media campaign which also presented Eichmann as Evil Incarnate.

Arendt concluded that Eichmann was guilty. However, she scandalised many in the Zionist community by insisting that he was not guilty of the evil with which he was being branded. She argued that this constitutes a misunderstanding of evil, at least to the extent that evil appears within the world that we share with other human beings. The source of worldly evil is much more 'banal': our human failure to make decisions and choices about our 'examples' and our 'company'; our failure to exercise our capacity for responsible, autonomous judgment.[2] She reflects:

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[2] Arendt argues that in the process of demonising Eichmann, prosecution and press were encouraging people to alienate themselves completely from Eichmann's person, to identify him as utterly other than human, and in so doing licensing them to deny or forget 'there but for the grace of God go I'. Hannah Arendt, *Eichmann in Jerusalem : A Report on the Banality of Evil*, Revised and Enlarged ed. Penguin, Harmondsworth, 1976. She identifies the source of totalitarianism as 'the refusal to judge: lack of imagination, of having present before your eyes and taking into account the others whom you must represent.' Hannah Arendt, *Basic Moral Propositions*, Seventeenth Session, Hannah Arendt Papers, Container 41, Library of Congress, p024560, quoted in Beiner, 'Hannah Arendt on Judging', p112. Arendt observes that whereas thought tries to reach some depth, to go to the roots, 'evil is never "radical", it is only extreme, and it possesses neither depth not demonic dimension. It can overgrow and lay waste a world precisely because it spreads like a fungus on the surface. ... Only the good has depth and can be radical'. Hannah Arendt, 'Eichmann in Jerusalem: An Exchange of Letters', *The Jew as Pariah: Jewish Identity and Politics in the*

> In the last analysis ... our decisions about right and wrong will depend upon our choice of company, with whom we wish to spend our lives ... In the unlikely case that someone should come and tell us that he would prefer Bluebeard for company ... all we could do would be to make sure that he would never come near us. But the likelihood that someone would come and tell us that he does not mind and that any company will be good enough for him is, I fear, by far greater. Morally and even politically speaking, this indifference, though common enough, is the greatest danger. And in the same direction, only a bit less dangerous, does this other common modern phenomenon lie, the widespread tendency to refuse to judge at all. Out of the unwillingness or inability to choose one's examples and one's company, and out of the unwillingness or inability to relate to others through judgment, arise the real *skandala*, the real stumbling-blocks which human powers can not remove because they were not caused by human and humanly understandable motives. Therein lies the horror and, at the same time, the banality of evil.[3]

For Arendt, a world that is 'fit for human habitation', can only survive if we exercise our potentialities for autonomous judgment. In her earlier work she argues that a form of 'action' can provide a brake to automatic processes of destruction and alienation, unleashed by both mass cultural and totalitarian movements as well as scientific and industrial developments.[4] Action is the capacity to begin something new, the outcome of which is unpredictable. It is the form of human activity which corresponds to the human condition of plurality: that 'we are all the same, that is, human, in such a way that nobody is ever the same as anyone else who ever lived, lives, or will live'.[5]

Modern Age, ed. Ron H. Feldman Grove Press, New York, 1978, p251, quoted in Ronald Beiner, *Political Judgment* Methuen & Co., London, 1983, p167, (note 52).

[3] Hannah Arendt, *Some Questions of Moral Philosophy*, Fourth Session, Hannah Arendt Papers, Container 40, Library of Congress, p024651, quoted in Beiner, 'Hannah Arendt on Judging', p113.

[4] Arendt distinguishes here between action, the 'words and deeds' of individual human beings within the world, and the exchange of information between experts and technicians.

[5] Hannah Arendt, *The Human Condition*, Charles R. Walgreen Foundation Lectures University of Chicago Press, Chicago, 1959, pp7, 9. Through action we can reveal more of

Arendt had a keen sense of the socio-political significance of shared values and common standards, and of the fragility of metaphysical ultimates.[6] However she rejects outright any suggestion that it might be better to dilute the burden of individual responsibility for judgment, by appealing to something deemed more fundamental (for example reality, reason, human nature, community, nationhood or God) to orient our action. At this juncture we must proceed without recourse to a shared metaphysics, and give priority to affirming individual responsibility for judgment.[7] She makes this point in a dialogue with philosopher Hans Jonas. Jonas suggests that if, as Arendt argues, the task of politics is to 'make the world a fitting home for man', then we must first ask 'What is a fitting home for man?' and this 'can only be decided if we form some idea of what man is or ought to be'. Further, this can not be determined 'except arbitrarily, if we cannot appeal to some truth about man which can validate judgment of this kind' as well as 'the derivative judgment of political taste that crops up in concrete situations'.

> [T]hat which has been declared dead and done with – namely metaphysics – has to be called in at some place to give us a final directive. … our powers of doing or acting now extend over such matters as really involve a judgment or an insight into, or a faith in ... some ultimates. … I don't think we can simply wash our hands and say Western metaphysics has got us into an impasse and we declare it bankrupt and we appeal now to shareable judgments.[8]

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ourselves than merely displaying skills, capacities and character traits that may be attributed to anyone; we can reveal who we are, as distinct from merely displaying *what* we are and *what* we can do.

[6] Arendt observes that the unprecedented evils of totalitarianism 'have clearly exploded our categories of political thought and our standards of judgment'; we no longer possess the reliable universal rules required for the subsumption of the particular in acts of judgment. Arendt, 'Understanding and Politics', p379, quoted at Beiner, 'Hannah Arendt on Judging', pp94-95.

[7] Beiner, 'Hannah Arendt on Judging', p127.

[8] Ibid., pp114-115.

Arendt responds:

> [I]f our future should depend on what you say now ... this actually demands that a new god will appear... That is, I am perfectly sure that this whole totalitarian catastrophe would not have happened if people still had believed in God, or in hell rather – that is, if there still were ultimates. There were no ultimates. And you know as well as I do that there were no ultimates which one could with validity appeal to. One couldn't appeal to anybody.
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> ... And if you go through such a situation [as totalitarianism] the first thing you know is the following: you *never* know how somebody will act. ... And if you want to make a generalization then you could say that those who were still very firmly convinced of the so-called old values were the first to be ready to change their old values for a new set of values, provided they were given one. And I am afraid of this, because I think that the moment you give anybody a new set of values ... you can immediately exchange it.
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> ... We wouldn't have to bother about this whole business if metaphysics and this whole value business hadn't fallen down. We begin to question because of these events.[9]

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[9] Ibid., pp115-116. This exchange occurred at a conference on 'The Work of Hannah Arendt' held at New York University, November 1972. The transcript has been published in Melvyn A. Hill (ed.), *Hannah Arendt: The Recovery of the Public World* St. Martin's Press, New York, 1979, pp311-315.

Introduction

In the following I construct a theory of autonomy (also referred to as 'autonomous judgment' or 'practical reason') designed to respond to a major contemporary predicament: that the authority of 'ultimate', 'metaphysical' or transcendent values is now so contested, at least in the public realms of post-industrialised, multicultural states, and also between states, that the capacity of these values to guide thought and action, words and deeds, is now subject to much doubt.[10] More specifically, the theory addresses the challenges pluralism, historicism and the critique of identity/difference pose, to the

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[10] I refer to these 'ultimates' as transcendent values throughout. This label reflects Richard Campbell's observation that when we standardly invoke the word 'truth' we are pointing towards that which transcends 'all our limited and historically conditioned modes of thought'. Richard Campbell, *Truth and Historicity* Clarendon Press, Oxford, 1992, p1. Transcendent values include the three objects of inquiry of the Kantian *Critiques*: truth (ie the cognitive), justice (ie the moral and 'practical') and beauty, (the aesthetic) but, I argue below, transcendent values are best conceived as embracing other ultimates – including for example love and respect. Appropriating Kant's concept of the 'unconditioned', I argue that these values are best conceived as grounded in that which is beyond existent socio-cultural conditioned forms, but that this transcendent ground is relocated to within the realm of human experience.

I employ the terms 'autonomy', 'practical reason' and 'autonomous judgment' more or less interchangeably within the thesis, and identify creative action as a Kantian interpretation of all three. While these terms are not generally treated as interchangeable within the literature, but rather, as discussed below, are the object of deep and extensive philosophical debate, the two most significant features I identify with them (in the light of the structure of Kantian 'autonomy' and 'practical reason') are: first, that they point to the individual as a source of action/judgment, and hence as responsible for their actions/judgments (as distinct from empiricist, behaviouralist accounts) and second, that they admit some level of trans-cultural intelligibility or accessibility, or, to come at the same point from a different direction, they admit an ideal of impartiality. This interpretation reflects an ethical cognitivist position which can be distinguished from emotivism, which reduces moral judgments to questions of preference, as well as decisionism, which reduces moral judgments to an unquestionable will. See Seyla Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* Routledge, New York, 1992, pp49-50 for these distinctions.

possibility of trans-culturally authoritative, transcendent values – the values of justice and truth in particular.[11]

Here I am addressing centuries –old tensions between universal principles and human particularity – the latter often identified in recent political thought with identity-driven struggles over ethnicity, religion, gender, sexual orientation, race, language etc.[12] It has been suggested recently, that the 'pragmatic imperative' that we enter in cross-cultural dialogue, ushered in by heightened awareness of global interdependence, as well as concerns about multiculturalism and multicultural citizenship, are bringing to an end philosophical preoccupation with tensions between universalism and relativism that arise, particularly, through insight into socio-cultural diversity and the incommensurability of values.[13] In contrast with this view,

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[11] I am employing the term 'pluralism' loosely here to indicate the challenges commitments to respect for human diversity raise for transcendent values, particularly in the light of the traditional western, philosophical understanding of these values. I am not referring to the epistemological position of value pluralism which specifies the incommensurability of values and is most strongly associated with Isaiah Berlin. This is a doctrine, opposed to monism, about the ultimate nature of value that maintains that 'life affords "a plurality of values, equally genuine, equally ultimate, above all equally objective," that "there are many objective ends, ultimate values, some incompatible with others"'. My use of the term pluralism here can also be contrasted with what Rawls and others refer to as 'pluralism' and Larmore identifies as reasonable disagreement: 'the expected inability of reasonable people to agree upon a comprehensive conception of the good'. Charles Larmore, 'Pluralism and Reasonable Disagreement', *The Morals of Modernity* Cambridge University Press, Cambridge, 1996, pp153-154 quoting Isaiah Berlin, *The Crooked Timber of Humanity* Knopf, New York, 1991, pp79-80.

[12] Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* Princeton University Press, Princeton, New Jersey, 2002, pvii. Or Chandran Kukathas maintains, the central question political philosophy is facing today is 'the problem of coping with diversity in a world in which particularity or difference or separateness is being reasserted.' Chandran Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom* Oxford University Press, Oxford, 2003, p2. See also Andrew Vincent, *Political Theory: Tradition and Diversity* Cambridge University Press, Cambridge, 1997, pp20-21.

[13] Seyla Benhabib, '"Nous" at Les "Autres" (We and the Others): Is Universalism Ethnocentric?' *The Claims of Culture: Equality and Diversity in the Global Era* Princeton University Press, Princeton, New Jersey, 2002, pp25-36. I agree with Benhabib, first, that

I hold that insight into the dire need for peaceful inter-cultural dialogue ought not serve to mitigate against the ethical significance of socio-cultural particularity. A theory of autonomy fully adequate to human plurality will seek to account for the possibility of non-coerced communication between radically different others, while as far as possible embracing this diversity.[14] For the sake of protecting the integrity of tradition-dependent spheres of practice (with Hans George Gadamer, Alasdair MacIntyre and Michael Walzer), and also to affirm the autonomy and responsibility of the individual judging subject, I construct an account of autonomy which aims to be as capacious or inclusive of socio-cultural diversity as possible, while still identifying sufficient human commonality with which to account for the possibility of trans-cultural communication, understanding, and following on from this, the realisation of transcendent values.

The distinctive strategy I employ to reconcile human commonality and particularity within the proposed theory, is to appeal to a revised conception of the Kantian 'unconditioned' as the ground of human commonality on which trans-cultural communication, understanding and transcendent values

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focus on socio-cultural particularity and 'theories of strong incommensurability' can distract from the many subtle 'epistemic and moral negotiations' that take place across cultures and between individuals as they deal with discrepancies, ambiguities and conflict; second, that 'complex global dialogue across cultures and civilizations' does in fact take place, and; third, we have something akin to a '*pragmatic imperative* to understand each other and to enter into a cross-cultural dialogue', embracing strong incommensurability, untranslatability and particularity. However, I take issue below with rejection of a strong thesis of incommensurability – arguing that acceptance of (strong but not total) incommensurability and untranslatability need not rule out the possibility of trans-cultural communication, understanding and hence justice; insight into the particularity of socio-cultural values and practices, especially as gained through participation in a diversity of forms of human activity or 'spheres of practice' (ie music-making versus philosophy versus running a home, for example) need not require retreat into strong forms of epistemic relativism. Further, as Larmore argues, values can be comparable without being commensurable. While two things cannot be compared except from some point of view, this does not require that the framework of comparison must embody a common denominator of value. See Larmore, 'Pluralism and Reasonable Disagreement', pp159-161.

[14] Benhabib, '"Nous" at Les "Autres" (We and the Others): Is Universalism Ethnocentric?' p31.

can be built. Because this unconditioned ground is common to all by virtue of being particular to none, I can construct a radically pluralist conception of autonomy, which does not privilege the cultural standards, understandings, – or forms in general – of any particular culture.

I follow Arendt (among many) and turn to Kant as a key source for rethinking autonomy.[15] The account is designed to maintain continuity with Kant's work and also to respond most adequately to contemporary debates within normative political thought concerned with theorising autonomy (or practical reason, practical wisdom etc.) and justice. In addition, I defend the proposed theory of autonomy on the grounds that it employs an ontological and epistemic framework which coheres best with the promotion of the practical realisation of the ideal of autonomy defended within it.

I appeal to three major sources to construct and defend the proposed account:

First, I defend the proposed conception of autonomy on the ground that it can stand as a point of universal commonality within a substantive, philosophically-vindicated account of trans-cultural justice. Here I appeal to Onora O'Neill's constructivist reading of Kant's vindication of Reason:

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[15] Other influential theorists who have turned to Kant in recent times to theorise impartial judgment and rethink practical reason include Jurgen Habermas, Karl-Otto Apel, Onora O'Neill, John Rawls. See Jurgen Habermas, 'Discourse Ethics: Notes on a Program of Philosophical Justification', trans. Christian Lenhardt and Shierry Nicholsen, *Moral Consciousness and Communicative Action* MIT Press, Cambridge, Massachusetts, 1990, p43. In her latter years Arendt turned particularly to Kant's *Critique of Aesthetic Judgment* and more political works, to consider how a conception of political judgment might be constructed. See Hannah Arendt, *Lectures on Kant's Political Philosophy*, ed. Ronald Beiner Harvester Press, Sussex, 1982; Beiner, 'Hannah Arendt on Judging', pp89-91. On Arendt's appropriations of Kant see also Jennifer Nedelsky, 'Communities of Judgment and Human Rights', *Theoretical Inquiries in Law*, 1.2, 2000, pp3-11; Seyla Benhabib, 'Judgment and the Moral Foundations of Politics in Hannah Arendt's Thought', *Situating the Self* Routledge, New York, 1992, pp121-147.

practical reason (which is strongly associated, if not equated by Kant, with autonomy) derives its authority from its standing as the commonality which must be assumed within an account of the possibility of (egalitarian) moral order, given plurality.

Second, I employ a two-part structure that I argue recurs in Kant's formal account of autonomy (as found principally within the *Critique of Practical Reason*) within his accounts of enlarged mentality and of the creative acts of genius (within the *Critique of Aesthetic Judgment*) and also within O'Neill's constructivist reading of Kant's vindication of Reason. This structure identifies that which transcends the phenomenal, conditioned realm, the un-conditioned, as fundamental to forms of judgment grounded in human freedom.[16]

Third, I defend the proposed theory on the grounds that it most adequately addresses core concerns and commitments within contemporary political thought, particularly the challenges that historicist insights, pluralist commitments and the critique of identity/difference pose to philosophically-vindicated theories of (trans-cultural) justice.

I argue that autonomy is best viewed as the exercise of a generic potentiality requisite not only for the realisation of trans-cultural justice, but trans-cultural, transcendent values generally. I call this form of autonomy, after Arendt's action, 'creative action', a highly capacious conception of practical reason.

Creative action consists of two major capacities. First, after Simone Weil's notion of Attention, 'receptive attention', a moment in which all existing preconceptions, prejudices, expectations, understandings are suspended, and one attends to a new aspect of experience, either at the level of sensation,

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[16] These forms of judgment are distinct from empirical judgments which Kant grounds in categories of the understanding.

feeling or thought.[17] Second, 'responsive judgment', in which, in the light of this new facet of experience, one critically evaluates and, if warranted, revises existing understandings, standards and techniques, currently shaping one's actions within the realm of activity or 'vital sphere of practice' in which one is engaged. Drawing particularly on Hans George Gadamer's notion of 'tradition' and Alastair MacIntyre's notion of a 'practice', I define a vital sphere of practice as a realm of human activity principally devoted to the realisation of any transcendent value, through the exercise of creative action.[18]

I argue that through the realisation of creative action, new meaning can be brought to existing standards of truth, beauty, respect, justice, etc.; indeed, the very realisation of transcendent values is best equated with this process of revision and revitalisation of existing standards of truth, beauty, justice.

I embed the proposed account of autonomy within a philosophically vindicated ontological and epistemic framework designed to address contemporary historicist insights and pluralist commitments. Here the fundamental locus of authority of transcendent values is identified with exemplars exercising creative action, within vital spheres of practice. I argue that the proposed, moderately-relativist ontological and epistemological framework provides a conception of truth and other transcendent values that is required in a philosophically vindicated account of autonomy that can be

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[17] See Simone Weil, 'The Simone Weil Reader', ed. George A. Panichas Moyer Bell, New York, 1977, pp48-51. The influence of Weil's work is particularly evident in Iris Murdoch, *The Sovereignty of the Good* Routledge & Kegan Paul, London and Henley, 1992. The concept of 'attention' is also employed within Sarah Ruddick's conception of 'Maternal Thinking'. Sara Ruddick, 'Maternal Thinking', *Rethinking the Family: Some Feminist Questions*, eds. Barrie Thorre and Marilyn Yalem Longman, New York & London, 1992, pp86-87.

[18] Hans-George Gadamer, *Truth and Method*, (Translated from the Second Edition) ed. Seabury Press, New York, 1975, Alasdair MacIntyre, *After Virtue* Duckworth, London, 1981. For MacIntyre's 'practices' see in particular Chapter 14, 'The Nature of Virtues' pp181-203.

defended, following Kant, as the commonality needed to realise trans-cultural justice.

It is evident then, that I set out to engage in the kind of justificatory project familiar within normative political thought: the delineation and defense of a conception of autonomy. As noted above, however, my underlying aim is to construct the account in such a way that it can be understood to contribute best to the practical realisation of autonomy as 'creative action'. To defend the proposed account as such, I argue that through the very process of constructing the thesis, I am seeking to realise creative action within the sphere of practice of political thought. In so doing I am also seeking to sustain a vital sphere of practice, that is, a context most conducive to the cultivation of the generic capacities needed for creative action. In this way I underpin the discursive defense of creative action, with engagement in a project which demonstrates substantive commitment to the practical realisation of creative action.[19]

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[19] I employ a pivotal distinction between discursive reason and other, tradition-dependent forms of rationality throughout the thesis. I identify the former with a view of reason which prevails within universalist political theory including liberal and Neo-Kantian theories of justice (eg Rawls, Larmore, Nussbaum, O'Neil) and theories of communicative or discourse ethics and deliberative democracy (eg Habermas, Apel, Benhabib) . Here the normative content or moral force of human reason is associated most strongly with procedures of verification and justification, of inquiry, evidence and questioning; impartial judgment is associated with objectivity, consideration of arguments, standards of consistency, and conscious self-reflection. The product of such procedures is well-founded or justified knowledge or decision (as distinct from 'knowledge of acquaintance' or 'world-disclosure' – see Chapter 4 below). See for example Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era*, p27; Charles Larmore, *The Morals of Modernity* Cambridge University Press, Cambridge, 1996, p168. Adherence to the universal authority of such standards of discursive reason is widespread within normative moral and political thought, even amongst theorists sensitive to the cultural diversity of forms of reason – as illustrated by Martha Nussbaum who argues, in response to historicist, pluralist and postmodern critiques of metaphysical foundationalism, that 'we are not left with the abyss. We have everything that we always had all along: the exchange of reasons and arguments by human beings within history'; we can continue to engage in the 'business of reasoning', the task of 'distinguishing persuasion from manipulation'. Martha C. Nussbaum, 'Human

The Demise of Metaphysical Ultimates

Three contemporary theoretical developments reinforce Arendt's insights into the contemporary vulnerability of metaphysical ultimates.

First, the communitarian critique of liberalism including most notably the work of Alasdair MacIntyre, Michael Sandel and Charles Taylor[20]:

Functioning and Social Justice, in Defence of Aristotelian Essentialism', *Political Theory*, 20.2, 1992, pp212-213. I argue below that what is most morally and politically significant about the distinction between 'persuasion and manipulation', is not a question of techniques or standards of reason and inquiry, but rather, the difference between communication and coercion. The identification of impartial judgment with discursive reason reflects the influence of a view, expressed in *The Republic* that to have real knowledge of something, *episteme*, is to be able to provide a clear account of it *logon didonai*; As Porter observes, within western thought the Greek *logos* has been typically translated as 'reason'; to claim to have a rational grasp of something should coincide with the ability to articulate it. Elisabeth Porter, *Women and Moral Identity* Allen & Unwin, Sydney, 1991, p93. Interestingly, Lobkowitz argues, however, that the Greeks of the third and fourth century did not hold that logos refers, primarily, to a cognitive faculty; rather, it meant rationality as it expresses itself in articulate speech, which for the Greeks was embodied in politics 'arguing and persuading one another and reaching rational decisions based on common agreement'. Nicholas Lobkowitz, *Theory and Practice: History of a Concept from Aristotle to Marx* Notre Dame Press, Notre Dame, Indiana, London, 1967, p30. Here the focus seems to be, as it is today, on achieving agreement based on warranted justification through reason, rather than on disclosure of what is there. Lobkowitz's interpretation of the Greeks would seem to be reinforced by the *Seventh Letter* in which Plato identifies *logos* with 'the stream that flows from [the dialogue of the soul with itself] and sounds out through the mouth'. Here Plato identifies as three (of five) conditions of 'knowledge' (or *episteme*) of an object (or every 'real being') (1) the name, (2) the definition, (3) the image. However, Plato also states that none of these are able to capture the 'being' of the object'. See Gadamer, *Truth and Method*, p368; Plato, 'Complete Works', ed. John Cooper Hackett Publishing Company, Indianapolis, 1997, pp1659-1660.

[20] Charles Taylor, *Sources of the Self: The Making of the Modern Identity* Cambridge University Press, Cambridge, 1989; Michael Sandel, 'The Procedural Republic and the Unencumbered Self', *Political Theory*, 12, 1984,; MacIntyre, *After Virtue* See also Max Horkheimer and Theodor Adorno, *Dialectic of Enlightenment*, Jurgen Habermas, *The Philosophical Discourse of Modernity: Twelve Lectures*, trans. Frederick Lawrence MIT Press, Cambridge, Mass, 1987; Gorz, *Critique of Economic Reason*

communitarians are critical of the erosion of meaning, shared values and 'social capital' within liberal states, attributing this in part to the dominance of technocratic and rationalistic, 'dislocated' forms of reason.[21] They argue that these prevailing forms of reason are divorced from and displacing socially-embedded traditions of practice which have their own particular, internally constituted rationalities. In contrast to arenas in which rationalistic and technocratic forms of reason prevail, such traditions are viewed as fertile soil in which to cultivate human potentialities, capacities or virtues. The exercise of such capacities gives meaning and substance to shared values.[22]

Second, the post-structuralist/postmodernist critique of identity/difference[23]: this is a critical perspective that highlights the oppressive implications of the construction of identity through difference, focussing in particular on the implications of this for members of minority groups. According to the critique of the 'logic of identity', dominant normative ideals and identities overshadow or 'silence' other less robustly defended or 'fixed' identities.[24] Consequently, appeals to, and claims to have realised transcendent values, including 'truth' and 'justice' (and at least by association, truth and justice themselves!) are implicated in oppressive practices and institutions which

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[21] For an arresting account of this erosion of meaning see the opening of MacIntyre's *After Virtue*: Chapter 1, 'A Disquieting Suggestion', pp1-2. On the erosion of the civic virtues see Robert D. Putnam, 'Bowling Alone: America's Declining Social Capital', *Journal of Democracy*, 6.1 (Jan), 1995, pp65-78.

[22] Defence of community and tradition-dependent rationality has also lead to concern with diversity and difference. See in particular Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* .

[23] For an excellent introduction to post-structuralist-modernist thought see the 'Introduction: The Postmodern Problematic' in Stephen White *Political Theory and Postmodernism* Cambridge University Press, Cambridge, 1991, pp1-11.

[24] For an introduction to the critique of identity/difference see William Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox* Cornell University Press, Ithaca & London, 1991, pp64-68. See also Iris Marion Young, *Justice and the Politics of Difference* Princeton, Princeton, New Jersey, 1990, pp98-99 .

mitigate against the appearance of the new, the different and the Other through the 'paradox of ethicality'.[25]

A third development to underpin the contemporary demise of metaphysical ultimates is the emergence of historicist philosophical insights. Historicist perspectives view human perception and action as implicated in the constitution of reality. In addition, the philosophical doctrine of historicity states that historical processes (ie social, cultural, etc.) are integral to what it is to be human; being human is *inherently* historical.[26] Historicist ontological insights point to cultural and epistemic relativism: truth, justice, beauty etc. vary between cultures, practices, times and places, and to a morally and politically significant degree. Such insights pose difficulties for the epistemic status of transcendent values within the western philosophical tradition. In the first instance this is because, since at least Plato's Theory of Forms, the prevailing view of 'truth' has been as eternal, unchanging and universal.[27]

Contemporary Political Theory and the Demise of Metaphysical Ultimates

Within contemporary political thought, three different kinds of responses to the vulnerability of metaphysical ultimates and traditional western epistemology can be identified.

The first is to evade the deepest of ontological and epistemological problems raised by the pluralist, post-structuralist and historicist insights and

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[25] On the 'paradox of ethics' see Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, pp9-10, 12-13.

[26] On the concept of historicity see Campbell, *Truth and Historicity*, pp398-402.

[27] Campbell refers to this as the 'deep' problem of truth. See 'The Historicity of Truth' in Ibid., pp395-398; 'The Historicity and Transcendence of Philosophic Truth' and 'Metaphysics and Historicity' in Emil Fackenheim, *The God Within: Kant, Schelling, and Historicity*, ed. John Burbidge University of Toronto Press, Toronto, 1996, pp148-163, 122-147. See also Carl Page, *Philosophical Historicism and the Betrayal of First Philosophy* Pennsylvania State University Press, Pennsylvania, 1995.

commitments which have contributed to this vulnerability. I associate this response with those who have followed John Rawls and employ what is arguably the prevailing, social-contract model of liberal justificatory approach within Anglo-American political thought. While many liberal theorists clearly take seriously the challenges these insights and commitments pose for normative political thought, and make subtle epistemic distinctions to identify (generally non-metaphysical) sources of justification for political principles in response to human diversity, they nevertheless continue to seek to defend the authority of (albeit highly capacious) normative principles of justice and human rights by appealing to reason.[28] Here appeal is made to discursive forms of reason employed within western philosophy and science. This project of legitimation itself re-enforces the dominance of those cultures and practices that are the traditional home to discursive and scientific forms of reason. Theorists who pursue this project of legitimation thus fall short of fully addressing the charge that they, albeit unintentionally, contribute to the dominance of prevailing western forms of reason over other forms, including those forms of reason employed for example by Indigenous peoples or within religious or ceremonial contexts, contexts devoted to the care of children and the fine arts.[29]

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[28] I must stress here, and as I discuss in Chapter Three, over the past three decades liberal theories of justice and human rights have reflected ever-increasing sensitivity to difference and responsiveness to plurality. See for example Nussbaum, 'Human Functioning and Social Justice, in Defence of Aristotelian Essentialism', Chandran Kukathas, 'Cultural Toleration', *Nomos Xxxxix Year Book for the American Society for Political and Legal Philosophy* New York University Press, New York, 1997; Will Kymlicka, *Liberalism, Community and Culture* Clarendon Press, Oxford, 1989, William A. Galston, *Liberal Purposes: Goods, Virtues and Diversity in the Liberal State* Cambridge, 1991. Charles Larmore provides particularly penetrating analysis of the implications of pluralism for philosophic justification of moral and political principles. See Larmore, *The Morals of Modernity* .

[29] Powerful discussions of alternative rationalities include Gorz, *Critique of Economic Reason* and Sara Ruddick, *Maternal Thinking: Towards a Politics of Peace* Beacon Press, Boston, 1989.

A second response to the vulnerability of metaphysical ultimates comes from theorists engaged in the post-structuralist critique of identity/difference and defence of socio-cultural particularity and plurality (ie ethnic, gender, racial, sexual, linguistic etc). These theorists generally celebrate challenges to western metaphysics, and themselves employ strategies of deconstruction, destabilisation and subversion to open up spaces for the appearance of the different, new and other. Theorists employing these strategies have generally been reticent to engage in re-constructive tasks. More recently, however, many have acknowledged that 'deconstruction is not the only activity needed in town' and have begun to confront the problem of reconciling commitment to 'otherness' with the need for authoritative, 'action-coordinating', normative ideals within public, political domains.[30]

In the following I employ a third approach, that can be broadly identified as 'constructivist'.[31] This justificatory approach stares squarely in the face of historicist, post-structuralist and communitarian critiques and insights, and in the light of these, engages in a re-constructive task. It affirms that at this juncture, traditional strategies employed to defend our now beleaguered metaphysical ultimates and shared authoritative standards are no longer adequate. In contrast to extreme relativist, anti-foundationalist perspectives,

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[30] Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p13. See also Young, *Justice and the Politics of Difference* ; Iris Marion Young, *Inclusion and Democracy* Oxford University Press, Oxford, 2000; White *Political Theory and Postmodernism* .

[31] The broad definition of ethical constructivism I employ coheres with the *Oxford Dictionary of Philosophy'*s entry which identifies it as (1) taking an anti-realist view of ethics which (2) adheres to the existence of ethical truths but (3) acknowledges that these are 'somehow constituted by human practices, including our emotions and reactions, politics and cultural habits' Blackburn (ed.), *Oxford Dictionary of Philosophy* Oxford University Press,Oxford, 2005, p121. In the following I delineate and defend not a merely coherentist, strongly anti-realist interpretation of constructivism, but a moderately-relativist version which admits a culturally-pluralist, practice- or tradition- dependent view of truth. For an introduction to constructivism as a justificatory strategy within ethical and political thought see Onora O'Neill, 'Constructivism in Rawls and Kant', *The Cambridge Companion to Rawls*, ed. Samuel Freeman Cambridge University Press, Cambridge, 2003, pp347-349; Larry Krasnoff, 'How Kantian Is Constructivism?' *Kant-Studien*, 90.4, 1999, pp385 - 409.

constructivists adopt moderate-relativist (and also moderate-universalist) positions which seek to affirm human agency and the possibility of trans-cultural understanding, while at the same time embracing historicist insights and strong commitment to respect human plurality.

As already stated, the main task undertaken within this thesis is to construct an account of autonomy as creative action which can stand as the human commonality required to construct a philosophically vindicated, substantive account of trans-cultural justice and other transcendent values. To this end I seek to construct a revised Kantian account of practical reason/autonomy in the light of: first, Kant's notion of unconditioned freedom and an interpretation of the (binary) structure of his formal account of autonomy; second, Kant's more substantive (as distinct from formal) reflections on practical reason and faculties of judgment; and third, Onora O'Neill's constructivist, political reading of Kant's vindication of reason as the universal commonality which must be assumed to account for the possibility of egalitarian moral order, given plurality.[32] Here I consider how Kant's more substantive reflections on practical reason and judgment (aesthetic and of genius). I ask: How must these be revised if practical reason/autonomy as creative action is to be vindicated as the commonality which must be assumed, if moral order is to be possible – particularly in the light of the major commitments concerning justice and respect within the (liberal) Dignity and (poststructuralist) Difference streams within contemporary political thought, as well as contemporary historicist insights and pluralist commitments?[33]

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[32] See in particular Onora O'Neill, *Constructions of Reason: Explorations in Kant's Practical Philosophy* Cambridge University Press, Cambridge, 1989, Chapters 1 -3: "Reason and Politics in the Kantian Enterprise", "The Public Use of Reason" and "Reason and Autonomy in Grundlegung 3".

[33] The terms Dignity and Difference are taken from Charles Taylor's essay "The Politics of Recognition" in *Multiculturalism: Examining the Politics of Recognition* (ed. Amy Gutmann).

In the light of these debates I conclude that practical reason or autonomy must be conceived as the minimally-determinate, maximally-capacious commonality requisite for the realisation of trans-cultural justice.[34] The latter must be understood to be a deliberative process, akin to processes defended by theorists of deliberative, radical and 'agonal' democracy, which may require face-to-face engagement between the parties to a dispute, in which the relevant socio-cultural values of each party are acknowledged and responded to.[35] Here justice is viewed as a process which proceeds from direct engagement, through which new hybrid, trans-cultural standards of justice may emerge which draw on the cultural norms of all parties concerned. This is a view of justice which I argue contrasts significantly with dominant liberal conceptions which presuppose that justice entails a process of adjudication proceeding from shared standards (of justice and the good). I also argue that for practical reason/autonomy to stand as minimally-determinate and hence maximally capacious, it must be conceived as a generic potentiality exercised within *any* sphere of practice in the course of realising transcendent values (ie including beauty, justice, love and truth).

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[34] In this way the theory resembles what Charles Larmore has identified as a 'political' (as distinct from 'comprehensive') justification of liberalism, which he argues (in contrast to Rawls's non-metaphysical interpretation of the political) seeks to defend liberalism as a *minimal* moral conception. See Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, p17; Charles Larmore, 'Political Liberalism', *The Morals of Modernity* Cambridge University Press, Cambridge, 1996, p133. A key difference, however, is that the present theory, particularly in order to stand as a *minimally*-determinate, *maximally*-capacious account, does not employ the social-contract justificatory strategy and defend the normative ideals within it as ones that all persons have sufficient reason to accept. I seek instead to account for the *possibility* of trans-cultural justice, (and other transcendent values) given plurality.

[35] See for example Young, *Inclusion and Democracy* ; James Bohman, *Public Deliberation: Pluralism, Complexity and Democracy* MIT Press, Cambridge, Mass., 1996; Chantal Mouffe (ed.), *Dimensions of Radical Democracy: Pluralism, Citizenship, Community* Verso, London, New York, 1992. On 'agonistic democracy' see Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox* .

Chapter Summary

In Chapter One I first introduce contemporary constructivism (both broadly conceived as well as the particular Neo-Kantian versions of Rawls and O'Neill) and highlight its affinities with Kant. I then identify key features of Kant's work which I either employ or must address in the following, particularly the structure of Kant's formal account of autonomy, and the problem of freedom in the context of Kant's transcendental philosophy. I then critically evaluate Rawls' and O'Neill's Kantian Constructivist conceptions of practical reason, particularly in light of Kant's commitment to the problematic notion of unconditioned freedom. I argue that given strong pluralist commitments, and the need to address historicism, a less determinate conception of practical reason is required than can be derived from either O'Neill's or Rawls' respective treatments of Kant's Categorical Imperative. Further, a substantive Kantian account of practical reason/autonomy must also address Kant's formal view that human autonomy is grounded in freedom *from* determinate or conditioned causes. A more persuasive, contemporary Kantian account of practical reason will employ the structure of Kant's account of moral autonomy and associated forms of judgment, and ground the judgment of the free agent in unconditioned or negative freedom. Nevertheless I argue that O'Neill's constructivist, anti-foundationalist, reading of Kant's vindication of reason provides a fruitful basis for justification of the proposed account of practical reason. By identifying practical reason as grounded in the unconditioned – that which transcends particular cultural forms – Kant provides a key structural feature for the proposed account of practical reason, defended as the human commonality which must be presupposed within a contemporary, substantive, historicist account of trans-cultural justice.

In Chapter Two I delineate and defend Onora O'Neill's constructivist interpretation of Kant's vindication of reason and begin to build on this Kantian view of the constitution of reason's authority. In light of Kant's formal accounts of aesthetic judgment of the judgment of genius, as well as his more political reflections on the Public Use of Reason, I also develop further the interpretation of the structure of Kant's conceptions of moral autonomy and practical reason as constituted by two major components: the first, the fundamental source of the authority of practical reason, an indeterminate or *un*conditioned component; the second component accounting for the possibility of authoritative, shared, determinate or

conditioned standards, where these are grounded, fundamentally in the former, unconditioned component.

In Chapter Three I identify core insights and commitments concerning respect, justice and the task of political theorist, within what I refer to as the contrasting 'Dignity' and 'Difference' streams of contemporary political thought: the former identified with liberal theories of justice and human rights which have followed John Rawls in the loosely Kantian, social-contract tradition; the latter with political and ethical perspectives more strongly informed by critical theory, post-structuralism and the critique of identity/difference. In this chapter I identify the criteria which must be met if the proposed account of autonomy/practical is to be defended on the ground that it responds most adequately to both sides of these debates. I argue that such an account of autonomy must stand as the universal commonality needed to construct a minimally-determinate, maximally-capacious account of trans-cultural justice.

In Chapter Four I delve more deeply into the contrasting ontological and epistemic commitments which underlie the Dignity and Difference perspectives on justice. I draw here on a distinction Stephen White makes between, on the one hand, a sense of 'responsibility to act in the world in a justifiable way', a primary commitment he identifies within 'dominant western styles of ethical and political thought', and on the other, an at least implicit commitment shared by 'most radical postmodern thinkers': a sense of 'responsibility to otherness'.[36] Appropriating White's model, I argue that these two contrasting sets of political commitments and ontological/epistemic orientations correspond to the two-part structure of

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[36] Responsibility to otherness is identified with those theorists who employ intellectual strategies which 'bear witness' to the dissonance that arises out of awareness of the misfit between social constructions of self, truth and rationality, and 'that which does not fit neatly within their folds'. White *Political Theory and Postmodernism*, pp19-20 quoting from Jean Francois Lyotard, *The Differend: Phases in Dispute*, trans. George Van Den Abbeele, University of Minnesota Press, Minneapolis, 1988, ppxiii, 140-141.

Kant's conceptions of reason and moral autonomy identified in Chapter Two. In the light of this two-part structure, as well as the socio-political significance of both responsibility 'to act' and 'to otherness', I argue that there are persuasive grounds for embracing the political, ontological and epistemological commitments of both the Dignity as well as the Difference streams of political thought within a single, Neo-Kantian theory of autonomy and trans-cultural justice. Further, the proposed account autonomy and trans-cultural justice must give epistemic priority to the world-disclosing function of language over and above the Dignity commitment to defending the authority of shared standards and language's action-coordinating functions. I reflect here on the implications of this prioritisation for the prevailing, liberal, social-contract-based approach to normative political thought.

In Chapter Five I consider the proposed two-part epistemic and ontological framework in light of Richard Campbell's and Emil Fackenheim's reflections on the problem of reconciling philosophic truth with historicism, and the implications of this for the doctrine of historicity. Here I find that the conclusion of both theorists, that an historicist conception of philosophic truth must admit a transcendent ground *within* the Lifeworld, coheres well with the proposed two-part epistemic structure which gives priority to the world-disclosing function of language. However, neither theorists' proposals explain how a philosophically-vindicated account of truth can be constructed without negating the authority of the proposed transcendent ground. Nor do their proposals concerning the revision of the doctrine of historicity adequately address the critique of difference and pluralist commitments which must be fully addressed within the proposed account of autonomy. I suggest that by employing the proposed two-part Kantian structure and associated epistemological and ontological framework, read in conjunction with adherence to the equality of transcendent values, such an account can be constructed.

In Chapter Six I introduce further substantive content to the formal structure of the account of practical reason/autonomy proposed so far. Here I argue that particularist accounts of practical reason which embrace both a moment of receptive attention as well as responsive judgment, cohere well with the proposed two-part structure. However, justification of tradition-dependent accounts is susceptible to charges of arbitrariness, and fail to explain how

trans-cultural values can stand as authoritative. I argue that Gadamer deliberately evades the task of constructing a fully philosophically-vindicated account of hermeneutic truth to protect the authority, autonomy and integrity of exemplars acting with cultural traditions from encroachment by more dominant forms of rationality. This is an expression of the same obstacle to theorising philosophical truth as grounded in the transcendent within the Lifeworld, discussed in Chapter Five. I also consider Habermas' neo-Kantian theory of consensual truth. I find that while, within his later work, he seeks to acknowledge the plurality of forms of rationality, and also to explain how truth is indicative of more than merely warranted justification, Habermas' account of truth is neither sufficiently pluralist, nor able to account for truth as disclosure. I then turn to fully delineate the proposed account of practical reason/autonomy as creative action, and the associated two-tiered epistemological framework which grounds truth, justice and other transcendent values, fundamentally, in an unconditioned moment of receptive attention, followed by responsive judgment, exercised by exemplars within the contexts of 'vital' spheres of practice.

In the concluding chapter I turn to the remaining questions which must be addressed for creative action to stand as a revised Kantian account of practical reason/autonomy: First I address the conflict which arises because the proposed account (following Kant) identifies autonomy as grounded in the unconditioned, but also departs from Kant by viewing it as taking place within what is for Kant the necessarily conditioned realm of human experience. Second, I address the proposed collapsing of the Kantian distinction between cognitive, aesthetic and moral forms of judgment, and the grounding of these different kinds of judgment in the generic capacity for creative action. Here I engage with, first Hannah Arendt's reflections on the problem of theorising human freedom and judgment in the light of Kant, and second, Iris Murdoch's suggestion that the Kantian faculty of Imagination be viewed as a generic faculty needed to realise moral judgments as well as the aesthetic and cognitive. While the approach taken within the proposed account would seem to be at odds with what is suggested within the latest works of both Arendt and Murdoch, I defend the proposed, radical revisions on the grounds that they make a positive contribution to the Kantian project of affirming human agency and equality.

Chapter 1: Kantian Autonomy and Constructivism

By virtue of its place at the pinnacle of Enlightenment thinking, which still informs present-day commitments to freedom, equality and toleration of diversity, Kant's ethical thought is justly held to be the 'source of much that is now standard within normative theories in ethics, political philosophy and public policy'.[1] Kant's commitment to the equal worth of all human beings is said to 'pervade' his thinking about ethics and he is 'revered' for his unswerving defense of human freedom and respect for persons.[2]

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[1] Hannah Arendt has gone so far as to say that it is to Kant that we are indebted for the 'greatest clarification' in the 'obscure matters' concerning the problem of freedom. Hannah Arendt, 'What Is Freedom?' *Between Past and Future: Eight Exercises in Political Thought* Penguin Books, Middlesex, 1977 c1968, pp125-138; Iris Murdoch observes that Kant is the 'the father of all modern forms of the problem of freedom, and also, incidentally, the father of most modern theories of art'. Iris Murdoch, *Existentialists and Mystics* Penguin Books, New York, 1997, p262. Jurgen Habermas asserts that '*All* variants of cognitivist ethics take their bearings from the basic intuition in Kant's categorical imperative'.(Italics in Original) Habermas, 'Discourse Ethics: Notes on a Program of Philosophical Justification', p63. Over the past three decades there has been a resurgence of scholarly interest in Kantian ethics. (See remarks of the English editor of Immanuel Kant, *Kant's Political Writings*, ed. H. S. Reiss Cambridge University Press, Cambridge, 1991) Within Anglo-American thought this has been driven in large part by John Rawls' identification of his *Theory of Justice* as a form of 'Kantian Constructivism'. (See John Rawls, 'Kantian Constructivism in Moral Theory', *Journal of Philosophy*, 77.9 (September), 1980, pp515-572.) Alan Wood argues, however, that Rawls' work reflects the influence of two of Kant's foundational writings which have most influenced the history of moral philosophy: the *Groundwork for the Metaphysics of Morals* (1785) and his *Critique of Practical Reason*, (1788). Focus on these works (shared by both critics and supporters of Kant from Hegel onward) has lead to an over-emphasis of Kant's formal principle of morality, the Categorical Imperative, contributing to the widely held view that the central idea behind Kantian ethics can be formulated as a 'procedure' for testing maxims. This focus has also limited the avenues of philosophical inquiry pursued within ethical and political theory inspired by Kant. See Allen Wood, *Kant's Ethical Thought* Cambridge University Press, Cambridge, 1999, pp17, 96-100; Allen Wood, *Kant*, Blackwell Great Minds Blackwell Publishing, Malden, MA, 2005, p129.

[2] O'Neill, *Constructions of Reason: Explorations in Kant's Practical Philosophy*, pix; See also Wood, *Kant's Ethical Thought*, p6.

In this thesis I follow theorists including Hannah Arendt, Onora O'Neill, John Rawls and Jurgen Habermas, who have all looked to Kant to construct ethical and political theories which seek to affirm human autonomy and plurality. I draw on Kant in three main ways to construct the proposed account of autonomy designed to address the challenges that particularly historicism, pluralism and the critique of identity/difference pose for contemporary normative political thought.

First, Kant provides relevant and persuasive grounds with which to justify the account. Appropriating O'Neill's constructivist interpretation of Kant's vindication of reason, reason's authority can be identified with its standing as the human commonality required if a plurality of otherwise uncoordinated people(s) are to share a world, without resorting to violence or coercion. In the light of this interpretation, practical reason/autonomy can be defended on the ground that it stands as the human commonality which must be assumed to account for the possibility of (trans-cultural) justice, given conditions of plurality – an argument of particular relevance given contemporary global conditions of socio-cultural diversity and interdependence.

Second, and as I argue below, Kant's formal accounts of autonomy, enlarged mentality and the judgment of genius, as well as O'Neill's constructivist reading of Kant's vindication of reason, all share a common structure which provides a valuable conceptual framework with which to construct an historicist, pluralist account of autonomy. This two-part structure identifies the most fundamental authority of moral, aesthetic and political judgments with the *unconditioned*. Kant employs this structure to explain how such judgments can have (potential) universal validity. This constitutes a valuable framework because it provides a structure with which to theorise autonomy as grounded in that which transcends the socio-culturally particular. The proposed account is thus able to avoid, at its very foundation, privileging what would otherwise inevitably be culturally-conditioned understandings, standards, values or forms generally, and hence avoid privileging the socio-cultural forms of one particular group over the forms of other groups. Following on from this, autonomy grounded in the unconditioned provides a foundation from which to rethink the possibility of trans-cultural values built on commonality rather than coercion, as the fundamental ground of this

commonality does not privilege the standards or values of any particular socio-cultural group.

A third reason for turning to Kant is that he can be persuasively read as employing a broadly constructivist epistemological framework and justificatory approach. A constructivist approach is of particular relevance as it takes seriously historicist insights which recognise that human perception is implicated in the constitution of reality, expresses a strong commitment to respect socio-cultural plurality, but nevertheless seeks to affirm the possibility of transcendent, trans-cultural values by grounding these in human judgment and autonomy.

As I employ a broadly constructivist epistemology and justificatory approach, and also draw heavily on O'Neill's constructivist reading of Kant to defend the proposed account of autonomy, I begin this chapter by introducing contemporary constructivism. Here I signal the affinities between Kant and constructivism, as well as the points at which the proposed account diverges from the justificatory approaches taken by leading Anglo-American constructivists Rawls and O'Neill. I then turn directly to the key features of Kant's work I either employ or address in this thesis. I begin by introducing the relevant features of Kant's formal account of autonomy and moral theory as found principally within *The Groundwork*, *The Critique of Pure Reason* and *The Critique of Practical Reason*. Here I focus on the central notions of negative freedom and the moral law, two concepts integral to his conception of (full) autonomy. I highlight the explanatory power of Kant's concept of negative freedom, or what I refer to as unconditioned freedom, but also underline the epistemic problems it raises in the context of Kant's transcendental metaphysics. I then critically evaluate Rawls' and O'Neill's Kantian, constructivist accounts of practical reason and justice, particularly in the light of Kant's commitment to the unconditioned as the ground of autonomy, human dignity and the moral law.

Contemporary Constructivism and Kant

Over the past two decades or so constructivism has been associated with a cluster of justificatory strategies and epistemic and ontological commitments, employed by ethical and political theorists seeking to reconcile human plurality and historicity with the possibility of authoritative, universal (or

less ambitiously, trans-cultural) transcendent values, particularly of truth, justice and human rights. As stated above, constructivist thought admits that human perception and experience can not avoid being implicated in the constitution of human knowledge and standards of truth, beauty and justice etc. At the same time, however, it seeks to defend the possibility of objective, ultimate or what I refer to as transcendent values.[3]

Considered at a high level of generality, Kant has been justly identified as providing the 'definitive philosophical foundations' for constructivism: Kant's Copernican revolution shifts the epistemological focus of study away from principles governing the structure of the world-in-itself, towards the structure of experience of human beings in the world. It shifts the traditional focus of attention from objects of knowledge, to knowers of objects.[4]

Anti-realist/anti-rationalist affinities between Kant and the more radical of contemporary constructivists have also been identified. As Stephen Campbell observes, for both 'theoretical reasoning alone is incapable of telling us anything about the world as it is in itself'. Against the rationalist, Kant argues that the intellect can not provide direct access to noumena or

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[3] As O'Neill clarifies, ethical constructivists share the antirealism of many other constructivist positions. With moral realists they reject (or doubt) the view that 'there are distinctively moral facts or properties, whether natural or nonnatural, which can be discovered or intuited and will provide foundations for ethics'. However, ethical constructivism(s) differ from many antirealist positions 'not only in claiming that ethical principles or claims may be seen as the constructions of human agents'… (and hence affirming human autonomy) but also in 'rejecting those nonrealist positions which are too weak to support strong claims about objectivity in ethics'. O'Neill, 'Constructivism in Rawls and Kant', pp348-349.

[4] Stephen R. Campbell, 'Constructivism and the Limits of Reason: Revisiting the Kantian Problematic', *Studies in Philosophy and Education*, 21.6, 2002, p423. Campbell suggests that Kant's transcendental method, which grounds objective knowledge in the necessary conditions of possible human experience, can be thought of as basically collapsing theoretical considerations regarding what we can know to questions of phenomenology: the study of principles structuring human experience and understanding of the phenomenal world (p425).

'things in themselves'.[5] With the constructivist, embracing empiricist insights into the mediated nature of experience and the subject's role in the constitution of knowledge, Kant seeks to ground objective judgments in human capacities and conditions of possible human experience.

Constructivism has also been presented by its adherents as a 'new way' that seeks to negotiate between extreme forms of realism and anti-realism, or between universalist foundationalism and particularism, echoing Kant's middle-way approach which seeks to forge a path between realism/rationalism/idealism on the one hand and subjectivism/empiricism/scepticism on the other.[6]

Carla Bagnoli for example agues that constructivism provides an alternative to traditional ethical thought which oscillates between on the one hand, a *realism* which seeks objectivity in ethical judgments and assumes that ethical judgments can only legitimately aspire to objectivity if there are values, moral properties and moral facts out there to be *discovered*, *independent* of whether or not we do discover them, and on the other, a *non-cognitivist*, anti-realist view which holds ethical judgments to be 'expressions of non-cognitive mental states, such as decisions, desires, prescriptions, or attitudes'.[7]

Similarly, O'Neill argues that constructivism presents an alternative to, on the one hand universalist foundationalism, which presupposes unsupported metaphysical claims about the person, autonomy and reason, and on the other, forms of particularism for which justification ends in practices or

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[5] Ibid. p422.

[6] Carla Bagnoli, 'Moral Constructivism: A Phenomenological Argument', *Topoi*, 21.1-2, 2002, pp125-138.

[7] Bagnoli argues that the former fails to give due recognition to the role of human perception in constitution of knowledge, while the latter provides little scope for explaining how objective or shared authoritative ethical judgments might be possible. See Bagnoli, 'Moral Constructivism: A Phenomenological Argument'.

shared sensibilities, and admits insufficient commonality to account for possible comparison and critique between individuals, practices and/or cultures.[8]

Constructivism can also be associated with the work of a wide and diverse collection of contemporary thinkers when identified with theoretical projects which (1) recognise that human perception is implicated in the constitution of knowledge and truth, but (2) nevertheless defend the possibility of objective or trans-cultural/historical values and (3) ground these in human judgment and autonomy. When identified in these broad terms, three thinkers, Hannah Arendt, Hans George Gadamer and Andre Gorz, whose work has most strongly informed this thesis, can also be identified with constructivism.

Reflecting the constructivist view that human perception is implicated in the constitution of reality, all three theorists' work is strongly imbued with a phenomenological understanding of the a priori facticity of the Lifeworld, a view which is itself heavily indebted to Martin Heidegger's phenomenological investigations: human beings are embedded within and constituted through language, (ie cultural traditions and social practices) and further, through language we are all engaged in an ongoing process of constituting our world. These three theorists also share a strong appreciation of the importance, as well as the vulnerability of shared authoritative values, particularly in the light of human plurality, historicity and the threats materialist, technocratic and instrumental forms of rationality dominant within western industrialised states pose to meaning grounded in cultural traditions and practices. They nevertheless match penetrating insight into the vulnerability of shared values with a deep commitment to affirm human autonomy, plurality and creativity.

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[8] For O'Neill's universalist/particularist distinction see Onora O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning* Cambridge University Press, Cambridge, 1996, pp9-23.

Commitment to affirming human autonomy, commonality, truth and/or justice in the face of historicism and pluralism links Arendt, Gadamer and Gorz to Anglo-American theorists including Rawls, O'Neill, Martin Hollis and John McDowell. The latter group also seek to adopt a moderate-relativist stance which admits cultural and epistemic particularity, while at the same time defending the possibility of shared (objective or true) ethical and political standards grounded in human agency. Working within the Anglo-American tradition, the second group of thinkers are likely to have been more strongly informed by Ludwig Wittgenstein's radical challenge to philosophical appeal to a priori foundations than Heideggerian ontology.[9]

Constructivist thought can be characterised then, as committed to moderate forms of both relativism and universalism, embracing human plurality while at the same time affirming human autonomy. It consequently faces the challenge of affirming our shared responsibility for the constitution of human 'reality', without falling into the traps of, on the one hand, suggesting that this is a completely indeterminate, free-for-all process (raising the spectre of subjectivism), or a process which can be shaped only by values and standards internal to particular socio-cultural groups (raising the spectre

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[9] In a passage which is repeatedly quoted by English-speaking theorists grappling with Wittgenstein's radical anti-foundationalists insights, Stanley Cavell vividly captures the threat these pose to foundationalism: 'We learn and teach words in certain contexts, and then we are expected, and expect others, to be able to project them into further contexts. Nothing ensures that this projection will take place (in particular, not the grasping of universals nor the grasping of books of rules), just as nothing ensures that we will make, and understand, the same projections. That on the whole we do is a matter of our sharing routes of interest and feeling, modes of response, senses of humour and of significance and of fulfilment, of what is outrageous, of what is similar to what else, what a rebuke, what forgiveness, of when an utterance is an assertion, when an appeal, when an explanation – all the whirl of organism Wittgenstein calls "forms of life." Human speech and activity, sanity and community, rest upon nothing more, but nothing less, than this. It is a vision as simple as it is difficult, and as difficult as it is (and because it is) terrifying.' John McDowell, 'Virtue and Reason', *The Monist*, 62.3, 1979, pp338-339 quoting Stanley Cavell, *Must We Mean What We Say?* Charles Scribner's Sons, New York, 1969, p52.

of cultural and epistemic relativism).[10] On the other hand, to account for the possibility of trans-culturally authoritative values, it must avoid falling into the trap of appealing inadvertently to the a priori authority of unvindicated universals (human nature or reason for example).

In the following I turn both to Kant, as well as to other broadly constructivist theorists, who share common commitments to both affirming human agency and the possibility of authoritative, shared standards and values, while embracing human plurality.

Constructivist Ethical and Political Thought and Kant

Focusing down now to contemporary debates within *Anglo-American* ethical and political thought, constructivism is identified more specifically here with an approach to justifying ethical and political principles which interprets and appropriates Kant's treatment of the Categorical Imperative, particularly in its first universal law formulation (FUL): 'Act only on the axiom whereby thou canst at the same time will that it should become a universal law'.[11]

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[10] Hollis warns that 'A social science so drunk on construction that it simply equates construction with reality is as dangerous as it is incomplete'. Martin Hollis, *Trust within Reason* Cambridge University Press, Cambridge, 1998, p157. While Wittgenstein's 'forms of life' may be reminiscent of Richard Rorty's 1980's and 90's celebration of the free-for-all interplay of rootless, rudderless 'language games', constructivist theorists refuse to equate an anti-realist, anti-foundationalist position, with extreme forms of relativism. For example Hollis observes that as well as pointing to the cultural-relativity of 'forms of life' Wittgenstein's *Philosophical Investigations* also suggests a 'shared, universal framework or bedrock' which 'lies in very general facts of experience, more to do with our physical situation than with our cultural predispositions' (pp118-119). Wittgenstein 'shows no sign of wanting to write social actors out of the human story. He insists that scrutiny of the rules alone will not let us decipher social action. Rule books are always incomplete, because what a rule is depends on how it is interpreted. In playing the game we also help to construct it: there can be no case for an analysis of rule-following which lets the game absorb the players and reduce them to ciphers.' … 'We are … embedded but not lost in the games of social life'. Hollis, *Trust within Reason*, pp120-121.

[11] Immanuel Kant, *Fundamental Principles of the Metaphysic of Morals*, trans. T.K. Abbott, Prometheus Books, Buffalo, NY, 1987, p48. Alan Wood provides a helpful introduction to

The most prominent form of contemporary constructivism has been John Rawls's 'Kantian Constructivism'.[12] Rawls employs a hypothetical procedure, (ie the 'Original Position') designed to model deliberative conditions of freedom and equality, to generate principles of distributive justice. Within his later work, Rawls's constructivism assumes substantive conceptions of the moral person and the well-ordered society, and issues in principles intended for the evaluation of social institutions within 'a democratic society under modern conditions'.[13] This justificatory approach is (loosely) derived from an interpretation of Kant's Categorical Imperative as a procedure for making moral judgments.[14]

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the FUL, which Kant presents as derived from the mere concept of a categorical imperative: the FUL tells us to obey all practical principles that apply necessarily to all rational beings; to say that an imperative is 'categorical' means only that its bindingness is not conditional on our pursuit of some end set independently of it. Wood is most critical of the identification of the FUL as the *definitive* expression of the principle grounding Kant's ethical theory, and as the *most* authentic characterisation of its conception of practical reason. Wood argues that Kant's concept of human dignity, the absolute, hence equal worth of all rational beings, should instead be accorded central place within Kant's ethical theory. Wood, *Kant's Ethical Thought*, ppxiii-xiv, 136-139.

[12] As Kukathas observes, so compelling was Rawls' approach that Nozick was moved to assert that 'Political philosophers now must either work within Rawls' theory or explain why not'. Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, p5 quoting Robert Nozick, *Anarchy, State and Utopia* Blackwell, Oxford, 1974, p183.

[13] Rawls, 'Kantian Constructivism in Moral Theory', pp520, 518. Rawls' Kantian constructivism 'specifies a particular conception of the person as an element in a reasonable procedure of construction, the outcome of which determines the first principles of justice' (p516).

[14] In *A Theory of Justice* Rawls states that he does not defend his interpretation of the Original Position on the basis of Kant's texts. Nevertheless he does identify the theory with Kant, particularly on the grounds that in both cases moral principles are chosen under conditions that 'characterise people as free and equal': By acting from the principles chosen in the original position (ie 'as rational and independent persons in an original position of equality') 'persons express their nature as free and equal rational beings subject to the general conditions of human life'. John Rawls, *A Theory of Justice* Oxford University Press, Oxford, 1972, pp252-253. As discussed in some detail below, Rawls' interpretation of the original position is based on his interpretation of the Categorical Imperative Procedure, which adapts the Categorical Imperative so as to take into account 'the normal

O'Neill also derives her ethical constructivism from an interpretation of Kant's Categorical Imperative, this time read in the context of his critical project taken as a whole. In contrast to Rawls, she uses her anti-foundationalist reading of Kant to argue that a Kantian, constructivist defence of moral principles will appeal to merely minimal, modal or formal abstractions which must themselves be vindicated. Further, her procedure of construction is not designed to issue in substantive action-guiding principles. It instead seeks to vindicate only a single universal moral principle which is then intended to provide a standard with which to critically evaluate other more substantive action-guiding principles. [15]

As already noted above, O'Neill's constructivist, anti-foundationalist reading of Kant's vindication of reason provides a fruitful point of departure for justification of the proposed account of practical reason. However, because my project is perhaps more strongly informed by pluralist commitments, and also seeks to fully address historicist, pluralist and post-structuralist challenges to trans-cultural values, I argue in the following that a less determinate, more capacious or inclusive conception of practical reason/autonomy is required than can be derived from either O'Neill's or Rawls' respective treatments of Kant's Categorical Imperative. Informed by Heideggerian, phenomenological insights into the a priori facticity of the 'Lifeworld' that grounds human understanding and reality in the lived, embodied, experience of individual human beings, as well as Neo-

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conditions of human life and our situation as finite beings with needs in the order of nature'. John Rawls, 'Themes in Kant's Moral Philosophy', *John Rawls: Collected Papers*, ed. Samuel Freeman Harvard University Press, Cambridge, Mass; London, 1999, p498.

[15] O'Neill proceeds from an abstraction of the 'circumstances of justice, meagrely construed': 'The problem of justice arises only for a plurality of at least potentially interacting agents'. Principles of justice must be constructed 'without presupposing a determinate ideal of the person'. Such principles will hold for any possible plurality; for they demand only the rejection of principles that cannot be shared by all members of a plurality'. Onora O'Neill, 'Constructivisms in Ethics', *Constructions of Reason: Explorations in Kant's Practical Philosophy* Cambridge University Press, Cambridge, 1989, pp212, 215, 218.

Aristotelian concerns to delineate substantive capacities needed to realise ethical and political values, the broadly constructivist approach I employ diverges significantly from these leading Neo-Kantian constructivists, and in at least four ways:

First, as just stated, while I follow O'Neill and employ a constructivist justificatory strategy and proceed from minimal abstractions, I seek to go further and construct a minimally-determinate and hence maximally-capacious account of autonomy. Second, while I appeal to O'Neill's reading of Kant's constructivist vindication of reason for formal grounds with which to justify the account, I defend the account of autonomy as the substantive commonality which must be presupposed if trans-cultural justice is to be possible. Consequently I must address the divergence between this account and Kant's transcendental metaphysics. Third, I employ the two-part structure I derived from Kant's accounts of autonomy, enlarged mentality, the judgment of genius, and ground the conception of autonomy, fundamentally, in the unconditioned, that which transcends particular cultural forms – rather than any determinate conception of reason or the person. Fourth, this project requires that I also address the problem of reconciling truth with historicity, and construct a pluralist conception of philosophic truth – rather than presenting the theory with O'Neill, as a metaphysically ambivalent abstraction, or with (the later) Rawls, as a non-metaphysical ('political') account.

I turn now to introduce the key features of Kant's work I either employ or address to construct the proposed theory, and defend particularly the points at which my own appropriations of Kant diverge from Rawls' and O'Neill's.

Unconditioned Freedom

The idea that a human being has an internal source of action that is free from the dictates of desire, fear, or any of the other pushes or pulls of emotion and personal interest, is central not only to Kant's moral theory, but also to his concept of human dignity. Kant identifies this source of action with the free will – a source of action which enables one to pursue a course of action for its own sake, as an end in itself, rather than out of some or other form of 'inclination'.[16] The latter can range from the promptings of a 'flattering thought of merit', the lure of undertaking a 'noble' or 'magnanimous' deed, right through to actions undertaken when in the grip of passion, hatred or anger.[17] For Kant it is by virtue of a source of motivation that is free from any of these 'external' promptings that moral responsibility and agency can be attributed to individual human beings; only then can human beings be viewed as other than subject to the determinate relations of causality.[18]

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[16] Immanuel Kant, *Critique of Practical Reason*, trans. Mary Gregor Cambridge University Press, Cambridge, 1997, p64. Kant refers to 'every influence on feeling and every feeling in general' as *pathological.* Our 'nature as sensible beings is so constituted that the matter of the faculty of desire, (objects of inclination, whether of hope or fear)' through our 'pathologically determinable self' , strives 'to make its claims primary and originally valid, just as if it constituted our entire self'. This propensity to try and make one's own subjective inclinations into the 'objective determining ground of the will' Kant calls *self-love*; *self-conceit* arises when 'self-love makes itself lawgiving and the unconditional practical principle'.p64.

[17] Ibid., p131.

[18] Kant does admit a positive function for at least *one* form of 'feeling' in his discussion of moral agency: In as much *as respect for the (moral) law* moves (pathological) resistance out of the way it can be viewed as a 'positive furthering of' the 'causality' of the law. In this sense this can be called a feeling of respect for the law, a moral feeling. Ibid., p65. In the *Metaphysic of Morals* Kant clarifies in his discussion of respect for the moral law, that lest it be objected that he 'takes refuge behind the word respect in an obscure feeling', … 'although respect is a feeling, it is not a feeling received through influence, but is *self-wrought* by a rational concept, and, therefore, is specifically distinct from' other feelings which may be referred either to inclination or fear. 'What I recognize immediately as a law for me, I recognize with respect. This merely signifies the consciousness that my will is *subordinate* to a law. … Respect is properly the conception of a worth which thwarts my

In the concluding section of the second *Critique*, the 'Doctrine of Method', it is clear that potentiality for action dictated by the free will has deep significance for Kant. He argues that by learning to act out of a 'pure moral motive' the human being can begin to 'feel his own dignity'. This gives the moral agent's mind 'power unexpected even by himself, to tear himself away from all sensible attachments so far as they want to rule over him and to find a rich compensation for the sacrifice he makes in the independence of his rational nature and the greatness of soul to which he sees that he is called'.[19] As consciousness of this freedom develops,

> a feeling of pain is excited but also by withdrawing from the constraints of even true needs, there is also deliverance from manifold dissatisfaction in which all those needs entangle him… the heart is freed and relieved from a burden that always presses on it…[20]

Gradually the agent develops 'the ability to disregard all inclinations' which 'leads to the possibility of being sufficient in myself'.[21]

The Moral Law

From the point of view of Kant's transcendental philosophy the existence of the free will, the capacity to act free from the dictates of personal inclination, is something of which we can have no (empirical) knowledge. Kant maintains, however, that we can encounter a sign of this freedom within ordinary human experience: this is the voice of our conscience telling us, when we feel doubt about the virtue, moral worth or justice of a possible course of action, that even though this is what we would like to do, for

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self love'. Kant, *Fundamental Principles of the Metaphysic of Morals*, p26. (Footnote 3, Italics in original)

[19] Kant, *Critique of Practical Reason*, p126.

[20] Ibid., p132.

[21] Ibid. .

example, for the sake of our own happiness or the happiness of others, or because it would seem to accord with the proper or right course of action, this is in fact not what we ought to do; in spite of all appearances to the contrary, there is a voice within us affirming the moral worth of an alternative course of action.[22]

This voice of our conscience within us or sign of our freedom is represented in the 'moral law'.[23] Kant's presentation of the moral law reflects the project he undertakes within the *Critique of Practical Reason*: just as he sought within the *Critique of Pure Reason* to identify the universal, necessary and in this sense objective laws of the world of phenomena with a view to determining what we can know, within the second *Critique* Kant seeks to establish objective principles concerning what we ought to do. Here objective, moral or 'practical' principles are understood to be those which stand as necessary and in this sense authoritative 'for the will of every rational being'.[24]

Kant's view that for an action to stand as moral, its source of motivation must be free from any of the promptings of personal inclination, 'independent of empirical conditions (ie conditions belonging to the sensible

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[22] While Kant specifies that the authority of the moral law is in no way indebted to empirical facts or experience, we can nevertheless observe its working within experience in cases in which people admit that it is possible to act other than according to the dictates of their interests. Kant cites an example of a man considering giving false testimony against an honourable man: 'he is aware that he ought to do it and cognizes freedom within him, which, without the moral law, would have remained unknown to him' Ibid., pp27-28.

[23] In the introduction to *The Critique of Practical Reason* Kant states that (transcendental) 'freedom is real, for this idea reveals itself through the moral law'; we can 'know' it but without having 'insight' into it, 'because it is the condition of the moral law, which we do know'(p3-4) He clarifies that 'the moral law is the condition under which we first *become aware* of freedom'. Freedom is the *ratio essendi* of the moral law ('were there no freedom, the moral law would not be encountered at all in ourselves') and the moral law is the *ratio cognoscendi* of freedom ('for had not the moral law *already* been distinctly thought in our reason, we should never consider ourselves justified in *assuming* such a thing as freedom) Ibid., p4. (Footnote)

[24] Ibid., p17.

world)' also informs his understanding of the source of the authority of the moral law: to formulate the moral law Kant takes the idea of a (subjective) principle or precept of action, or 'maxim', and separates from it 'everything material'. If the free will is to have a 'determining ground in the law' then this too must be 'independent of the *matter* of the law'.[25] What remains of a principle or law of action once stripped of all 'matter' is merely the 'lawgiving form'.[26] Out of this process of abstraction the *moral law* emerges: 'So act that the maxim of your will could always hold at the same time as a principle in a giving of universal law'.[27]

Full Autonomy: Unconditioned Freedom and the Moral Law

The two-part structure, which I argue below provides such a valuable explanatory tool for the proposed theory, can be first drawn from Kant's

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[25] Wood argues that many of the 'standard images, interpretations, and caricatures' of Kant's ethical thought (critical of an arid, empty formalism) are based on misunderstandings of Kant's 'important claim that the fundamental moral principle must be a priori and owe nothing to empirical anthropology'. Kant's concern for the empirical is clearly evident when Kant states that it is "of the greatest practical importance" that the moral law be presented unmixed with anthropological considerations – because pure respect for the law is the only motive which can subject our inclinations to reason (G 4:440) and only the a priori motive of duty is capable of producing good actions reliably (G 4:390, 411). Wood, *Kant's Ethical Thought*, pp10-11. Wood's point highlights the importance of keeping in mind a clear distinction between Kant's formal presentations of autonomy and practical reason, and his political and anthropological observations concerning human faculties of judgment – a distinction I return to below. In *The Groundwork* Kant distinguishes between empirical philosophy which 'is based on grounds of experience' and pure philosophy 'which delivers its doctrines from a priori principles alone'. The latter he divides into on the one hand, the merely formal logic, and on the other, the metaphysic, when 'restricted to definite objects of the understanding'. From here metaphysics can be divided into a metaphysic of nature and metaphysic of morals where the latter is divided into an empirical part – called 'practical anthropology' and a rational part called 'morality'. Kant, *Fundamental Principles of the Metaphysic of Morals*, p10.

[26] Kant, *Critique of Practical Reason*, p26. See pp24 -29 for discussion of the merely formal, non-empirical constitution of the moral law as a 'fact of reason'.

[27] Ibid., p28.

account of full autonomy read as constituted by first, the idea of negative freedom, and second the moral law (and its associated formulations of the Categorical Imperative): autonomy is grounded in freedom in the negative sense, as freedom from the conditioned, but given determinate, positive content through the moral law, where this, as we have just seen, is constructed without appealing to anything empirical (ie conditioned).[28] This two-part structure is reflected in the following passage in the second *Critique*:

> Autonomy of the will ... consists in independence from all matter of the law (namely from a desired object) and at the same time in the determination of choice through the mere form of giving universal law that a maxim must be capable of. That *independence*, however, is freedom in the *negative* sense, whereas this lawgiving of its own on the part of pure and, as such, practical reason in the *positive* sense. Thus the moral law expresses nothing other than the autonomy of pure practical reason, that is, freedom.[29]

As O'Neill explains, for Kant, 'random action or action that reflects mere, sheer choice' is mere 'lawlessness' regarded as 'antithetical to morality'. Such action may display independence, but possesses neither the rationality nor the coherence needed for it to stand as fully autonomous. The only constraint on such independence must come from the negative criterion that if we are to act free from alien causes, then we must act, not by subordinating ourselves to something external or alien to this freedom, but rather, to 'laws' which we impose upon ourselves (as unconditioned beings). [30]

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[28] Kant, *Fundamental Principles of the Metaphysic of Morals*, pp77-78.

[29] Kant, *Critique of Practical Reason*, p30.(Italics in original)

[30] Onora O'Neill, *Bounds of Justice* Cambridge University Press, Cambridge, 2000, p42, referring to Chapters Two and Three of the 'Groundwork' (also translates as *Fundamental Principles of the Metaphysic of Morals* – see above) Immanuel Kant, 'Groundwork of the Metaphysic of Morals', *Practical Philosophy*, ed. Mary Gregor Cambridge University Press, Cambridge, 1996, pp446,447. O'Neill finds the term 'autonomy' apt here as it originally characterised cities which 'made their own laws' – ie autonomy suggests self-rule: 'What else can freedom of the will be but autonomy – that is, the property which will has of being a law unto itself'. Kant, 'Groundwork of the Metaphysic of Morals', p447.

> On the presupposition that the will of an intelligence is free, there follows necessarily its autonomy as the formal condition under which alone it can be determined. [31]

In the following chapter I argue that the two-part structure I am identifying here with Kant's full-autonomy, recurs within his accounts of aesthetic judgment (in particular his discussion of enlarged mentality), the judgment of genius, as well as O'Neill's constructivist account of Kantian Reason. I characterise this structure more generally as constituted by (1) a fundamental, unconditioned, unformed component which must be assumed to be held in common by all and (2) a formed, conditioned component which explains how authoritative standards can be held in common, where these derived authority, fundamentally, from the former unconditioned component.

Transcendental Idealism and the Problem of Freedom

There is no doubt that freedom of the will is pivotal to Kant's concept of practical (or moral) reason.[32] Within his transcendental philosophy, the notion of the free will, the idea of a capacity to act from a source that is free from the dictates of personal inclinations is represented in the idea of a free cause. Kant identifies this notion with freedom in the 'strictest, ie transcendental sense'; a 'free will' that is thought of as 'altogether independent of the natural law of appearances in their relations to one another, namely the law of causality'.[33]

This, however, is also a highly problematic concept within the context of Kant's epistemological and ontological framework – his transcendental or

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[31] O'Neill, *Bounds of Justice*, p43, quoting Kant, 'Groundwork of the Metaphysic of Morals', p461.

[32] Wood, *Kant*, pp96-100.

[33] Kant, *Critique of Practical Reason*, p26.

critical idealism.[34] From the point of view of this framework this freedom can not be identified either as a substantive or an experienced phenomenon. As I employ a version of the notion of unconditioned freedom as foundational to the proposed account of autonomy, and construct a substantive account of autonomy/practical reason, I must address this major divergence from Kant's metaphysical framework. Consequently, to clarify the problem this idea poses within the context of Kant's transcendental idealism I first introduce the epistemic and ontological assumptions integral to his transcendental philosophy and the problems this raises for his concept of freedom. With this background in place I can then identify the points at which Rawls' and O'Neill's appropriations of Kant conflict with this framework, and the importance of addressing theses conflicts in the proposed account.

Kant's Transcendental Philosophy

With a view to reigning in the dogmatism of speculative philosophy, Kant's first *Critique* demarcates the boundaries of objective knowledge, restricting it to that which can be known from the point of view of possible human experience.[35] Kant's metaphysical framework reflects this project. His

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[34] Wood, *Kant*, p96. Wood comments that Kant in a 'long and restless search' repeatedly returns to the problem of the freedom of the will 'which he regards as profoundly important for the possibility of practical (or moral) reason'. Wood notes that Kant added 'two extraordinary sections to the first *Critique* in order to deal with it', devoted to it the third section of *The Groundwork* (1785), large portions of the second *Critique* (1788) and also revisited it in the first book of *Religion Within the Boundaries of Mere Reason*(1793-4)..

[35] Wood observes: 'Much of the Transcendental Dialectic [of the first *Critique*] is occupied with pruning back the pretensions of theoretical reason – discrediting traditional proofs for the existence of God … and insisting that human cognition is limited to the realm of experience'. (p82) 'No philosopher has laid more stress than Kant did on the importance for human beings on keeping in mind the limited capacity of their reason in all the affairs of life, especially in the conduct of inquiry and formation of beliefs. Yet no philosopher ever asserted more ardently the absolute title of reason to govern human thought and action, or gave us sterner warnings concerning the inherent badness and the disastrous consequences of permitting human passions, enthusiasms, or inspirations, or the

transcendental idealism is designed to incorporate the insights, while overcoming the shortcomings of both Hume's empiricism as well as Leibniz's idealism: The former identifies all human knowledge as ultimately resting on sensory 'impressions' grounded in experience, and consequently as always dependent on the point of view and subjective experience of the 'knower'; Leibniz's idealism maintains that a true description of the world is obtainable, uncontaminated by any experience of the observer, and derived from the exercise of reason.[36] Kant saw that both perspectives have major limitations: the empiricist criticises idealism's Reason as being limited to 'trivial' knowledge derived from the meaning of words and arising out of the 'relations of ideas', (for example the idea of a bachelor is identical with that

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supernatural deliverances of authority or tradition, to usurp the authority of reason. … The importance of subjecting reason itself to critique lies precisely in the fact that beyond reason there can be no legitimate appeal.' Ibid., pp108-109. In the preface to the second *Critique* Kant writes critically of the metaphysicians of the day: 'Metaphysics, a purely speculative science, … which is entirely independent of the teachings of experience … we find … that those who are engaged in metaphysical pursuits are far from being able to agree among themselves, but that, on the contrary, this science appears to furnish an arena specially adapted for the display of skill or the exercise of strength in mock contests – a field in which no combatant ever yet succeeded in gaining an inch of ground. Immanuel Kant, *Critique of Pure Reason*, trans. Meiklejohn (ed) Vasilis Politis Everyman, J.M.Dent, London, 1993, p14, (Preface to Second Edition). He characterises the first *Critique* here as 'a treatise on the method to be followed, not a system of the science itself… it marks out and defines both the external boundaries and the internal structure of the science itself'. (p18) In the *Dialectic* of the *Critique of Pure Reason* Kant seeks to show that we can not know the world 'as it is', that is apart from the point of view of the knower. We must not, as Kant puts it, aspire to unconditioned knowledge. Nevertheless because we always appeal to the truth of a premise when we establish something as true through argument, reason (as inference) inevitably leads us to search for the 'unconditioned': 'The determination of the causality of beings in the sensible world can as such never be unconditioned, and yet for every series of conditions there must necessarily be something unconditioned and so too a causality that is altogether self-determining. Hence the idea of a faculty of absolute spontaneity was not a need but, as far as its possibility is concerned, an analytic principle of pure speculative reason the ultimate premise whose truth is derived from no other source'. Kant, *Critique of Practical Reason*, p42. On the unconditioned or free cause as an idea of reason see also Roger Scruton, *Kant*, Past Master Series Oxford University Press, Oxford, 1982, pp46-47; Wood, *Kant*, p80.

[36] Scruton, *Kant*, pp14-17.

of the unmarried man) and as never leading to knowledge of matters of fact.[37] Consequently it threatens the possibility of objective knowledge. The Leibnizian idealist, however, argues that the empiricist's world of common sense belief and perception is no more than an appearance or 'phenomenon'; 'reality' can be accessible to reason alone, since only reason can rise above the individual point of view and 'participate in the vision of ultimate necessities, which is also God's.'[38]

Kant held that on their own, neither (the empiricist's) experience nor (the idealist's) reason can provide knowledge, the first providing 'content without form, the second form without content'.[39] Only in the synthesis of experience and reason is knowledge possible: Kant first took from empiricism the insight that there is no possibility of separating knowledge from the subjective condition of the knower. Second, to account for the possibility of objective knowledge, while still recognising the role of human perception in the constitution of knowledge, he employed his 'transcendental' method of justification and looked to the necessary and universal conditions for empirical knowledge.[40] This he identified with the necessary and universal conditions of possible (human) experience.[41] Here

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[37] Ibid., pp16-17.

[38] Ibid., p16. Leibniz understood Reason as operating through 'innate ideas' or principles which it knows intuitively to be true and which form the axioms from which a complete description of the world as it is, not as it appears to be from experience or a circumscribed point of view, can be derived. Scruton, *Kant*, p14.

[39] Scruton, *Kant*, pp17-18.

[40] Ibid., pp18, 23-27.

[41] Kant writes in the Preface to the Second Edition of the first *Critique* that given the success of the revolutions in method of mathematics and natural philosophy 'Let us then make the experiment whether we may not be more successful in metaphysics, if we assume that the object must conform to our knowledge.' In addition, assume that 'before objects are given to me, that is, *a priori*, I must presuppose in myself laws of the understanding which are expressed in concepts *a priori*. To these concepts, then, all the objects of experience must necessarily conform.' Following on from this, however, 'we come to the conclusion that our faculty of knowledge is unable to transcend the limits of possible experience…' Kant, *Critique of Pure Reason*, pp15-16.

objects of experience can be 'objectively known' only from the point of view of 'possible experience'. In contrast to Hume, for whom 'experience' implies merely raw sense-impressions, Kant stipulates that experience contains within itself the features of substance, space, time and causality etc. (ie the 'categories' of understanding) which give it form.[42] In contrast to Leibniz, he explains how objective knowledge *is* possible, without denying that the subjective experience of the knower conditions this knowledge.

The Problem of Freedom

The problem of freedom arises in the context of Kant's transcendental philosophy because here, as we have just seen, empirical knowledge is identified only with that which is constrained by conditions (ie space, time, causality etc) universal to human experience. That is, human experience is necessarily *conditioned* experience. Kant's notion of a free will, of an *un*conditioned cause, consequently falls outside of this category of possible human experience, as it is a formal idea of a source of action that is free from the pushes and pulls of causal relations. Kant considers this problem of freedom in his reflections on the Antinomy of Freedom, the paradoxical idea of a 'free cause'.[43] The idea of a (transcendentally) free cause arises out of rejection of the idea that a series of 'conditioned conditions' goes on to infinity, and acceptance of the alternative idea that there is a first member of the series which is 'utterly unlike the other members in needing no further condition'.[44] The Antinomy or paradox of freedom arises because both rejection as well as acceptance of the idea of a free cause is problematic, both

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[42] Scruton, *Kant*, pp26-27.

[43] The three Kantian antinomies begin with the idea of *a world* or whole world that is internally complete in itself, within which there are relations of dependency: each part is conditioned by another; each event, for example, is viewed as dependent on one that came before, each happening on its cause. This chain of relations gives rise to the idea of a series of conditions or causes. For discussion of Antinomies see Wood, *Kant*, pp96-100.

[44] Ibid., pp89-90.

threatening a set of contradictions. As Kant concludes, there must be yet the also cannot be, a first or free cause.[45]

The problematic nature of the idea of unconditioned freedom might, on first consideration, appear as something peculiar to Kantian metaphysics. However, as Arendt points out, the same tension appears at the ordinary level of experience within our own inherited western understanding of freedom (albeit an understanding which is itself heavily indebted to Kant). Here the tension appears as the contradiction between, on the one hand, our consciousness and conscience, telling us that we are free and hence responsible, and on the other, our everyday experience in the outer world, in which we orient ourselves according to the principle of causality.[46]

Kant's solution to the problem of freedom is to draw a distinction between on the one hand, things in themselves or 'noumena', and on the other, things as they appear ('appearances') within the conditioned, empirical realm of 'phenomena'. Here the free cause can be viewed as a 'thing in itself'. Kant argues that there is no contradiction in supposing the existence of such things, but we can have no cognition of them (as they can not be given in

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[45] Ibid., p90 'If we say that the regressive series goes on infinitely, then we seem to be saying that at what ever point we consider it, it is bound to be still incomplete, in which case the conditioned existence has not been supplied with what is sufficient for it to exist.' On the other hand, if we accept the idea of an unconditioned cause, then 'we seem to be committed to the existence of a being that violates a necessary law of experience – the law requiring the existence of a kind to be conditioned in the way that generates the series.'

[46] Arendt writes: 'In all practical and especially political matters we hold human freedom to be a self-evident truth, and it is upon this axiomatic assumption that laws are laid down in human communities, that decisions are taken that judgments are passed. In all fields of scientific and theoretical endeavour, on the contrary, we proceed according to the no less self-evident truth of *nihil ex nihilo*, of *nihil sine causa*, that is, on the assumption that even "our own lives are, in the last analysis, subject to causation" and that if there should be an ultimately free ego in ourselves, it certainly never makes its unequivocal appearance in the phenomenal world, and therefore can never become the subject of theoretical ascertainment.' Arendt, 'What Is Freedom?' pp143-144.

intuition). Consequently from the point of view of theoretical reason 'their existence must remain forever an unsettled question'.[47]

While Kant may have 'saved freedom from a twofold assault' from the causality of inner motivation on the one hand, and of the workings of the outer world on the other, with his distinction between (knowable)

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[47] Wood, *Kant*, p94. Arendt provides an effective account of Kant's response to the problem of freedom: '… the moment we reflect upon an act which was undertaken under the assumption of our being a free agent, it seems to come under the sway of two kinds of causality, of the causality of inner motivation on the one hand and of the causal principle which rules the outer world on the other. Kant saved freedom from this twofold assault upon it by distinguishing between a "pure" or theoretical reason and a "practical reason" whose centre is free will, whereby it is important to keep in mind that the free-willing agent, who is practically all-important, never appears in the phenomenal world, neither in the outer world of our five senses nor in the field of the inner sense in which I sense myself'. Arendt, 'What Is Freedom?' pp144-155. As Wood observes there has been much speculation over what Kant means by 'things in themselves' and their relationship with 'appearances' – not least because Kant formulates transcendental idealism in a variety of ways. For a helpful discussion of the merits of the competing 'causality' versus 'identity' or 'two conceptions' interpretation see Wood, *Kant*, pp63-76. Wood notes that Kant's solution – to show that it is consistent to regard ourselves as both part of the world of causality and also as things in themselves – can not be interpreted as reconcilable by viewing both as empirical views of human action taken from different 'standpoints'. (p99) A persuasive interpretation which coheres with the constructivist one I employ of O'Neill and which takes seriously Kant's stated project of *The Critique of Pure Reason*, to define the limits of what we can know and save metaphysics or speculative reason from flights of fancy, is referred to as the 'identity interpretation'': Kant sees the 'critique' as a metaphorical court before which the traditional claims of metaphysics are being brought to test their validity. His metaphor is drawn from the Enlightenment political idea that the traditional claims of monarchs and religious authorities must be brought before the bar of reason and nature, and henceforth the legitimacy of both should rest on what reason freely recognises. (p14) The identity interpretation views the force of transcendental idealism as concerned with limiting 'our cognition of real entities to those features of them that stand in determinate relations to our cognitive faculties'. On this view then, the point of stipulating that we can have no knowledge of things-in-themselves is not to relegate the phenomenal realm of appearances from reality, but rather, to maintain that every appearance has an existence in itself. This interpretation (also referred to as the 'two conceptions' interpretation) holds that 'appearances are not distinct entities from things in themselves, but the same entities, conceived or referred to in different ways'. (p65)

appearances and (unknowable) things in themselves, he nevertheless pays a heavy price for so doing: Kant must maintain that we can have no knowledge of this freedom. In addition, as Wood argues, 'once Kant has established the self-consistency of asserting we are free while also viewing our actions as events in nature, he can (and indeed must) disavow any positive account of how freedom and natural causality actually relate to one another'. His doctrines require us 'to be austere metaphysical skeptics about what (or where) freedom of the will is or how it is possible'. Further, Kant can, even must reject any inference from the idea of free noumenal causality to conclusions about how our freedom is to be understood empirically.[48]

> Nothing whatever about moral psychology or our experience of the moral life, or about empirical human nature, can be legitimately inferred from Kant's critical solution to the abstract, metaphysical question of the free will. That solution involves nothing beyond a proof that freedom and natural causality are logically consistent.[49]

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[48] Wood, *Kant*, p98. Wood observes, however, that 'sadly… Kant seems to have thought it appropriate that in thinking of ourselves as free, we should also think of ourselves as members of an invisible world (a Kingdom of God or realm of grace) hovering somewhere beyond the realm of nature' – attributing a sort of positive reality to the theory of free action as noumenal causality. (p98)

[49] Ibid. O'Neill's reply to the many critics of Kant's notion of self legislation that is independent of alien causes, coheres well with Wood's 'identity interpretation' of the noumenal: critics argue that such legislation could only apply to a particular sort of agent, a 'noumenal self' who is independent of the empirical world and so of all causality. 'Acts are events in the world and so subject to causality, and so surely cannot have "independence of alien causes" if those "alien" causes are construed to include preferences, desires, inclinations or others states of the agent. Such freedom, it is held, assumes a metaphysically extravagant if not incoherent conception of the self as (in part) outside the causal order.' O'Neill argues that Kant's insistence on the possibility of negative freedom is more a rejection of the sufficiency of an empiricist approach to human action than a proof its existence: he insists that 'if we are to judge and deliberate, reason and argue, including reasoning and arguing about the world we know' we must take ourselves to be 'agents'; 'only beings who can own and control their action can adopt a moral standpoint, by seeking to impose the demands of positive freedom or autonomy on their action'. Further, Kant is explicit that he can offer no 'proofs' for these claims. In *The Groundwork* he notes that 'an analysis of freedom only leads us in a circle' and proposes

At this point, attempting to construct a *substantive, Kantian* account of practical reason (ie one which stands not only as a formal account, but also as pertaining to what is the case) founded on Kant's notion of unconditioned freedom, is likely to appear a 'hopeless enterprise'.[50] However, given first, the centrality of the notion of the unconditioned to Kant's view of human dignity and formal account of the possibility of moral order, and second, the value of the idea as an explanatory tool within an account of autonomy/practical reason defended as the commonality which must be assumed within a pluralist, historicist account of trans-cultural justice, this is a central task tackled in the following.

Kant's transcendental metaphysics debars him from making any claims about the existence of unconditioned freedom. Kant does nevertheless forge a connection between moral *practice* (ie in the sense of pertaining to empirical, practical action) and the transcendental ideal of unconditioned freedom, the free will and moral agency, through his notion of the moral law and the Categorical Imperative. In the following I argue that it is to this connection that Rawls appeals within his political thought.

Linking the Free Will and Practical Reason: The Moral Law as a 'Fact of Reason'
As noted above, while Kant is careful to state that we can have no direct, 'immediate' knowledge of our freedom, he nevertheless does maintain that we do have access to a sign of it in the moral law, through our reason. He

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that the only exit from this circle is via a critique of reason, which offers reasons why freedom is not to be denied, but no proof of freedom. O'Neill, *Bounds of Justice*, pp44-46.

[50] Arendt, 'What Is Freedom?' p143. Arendt writes at the opening of her essay 'What is freedom?': 'To raise the question, what is freedom, seems to be a hopeless enterprise. It is as though age-old contradictions and antinomies were lying in wait to force the mind into dilemmas of logical impossibility…'

gives the moral law the idiosyncratic status of a 'fact of reason'.[51] Kant is careful to stress that his use of the term 'fact' does not indicate an empirical phenomenon; nevertheless it has the Kantian status of an objective fact by virtue of being a necessary product of our reason:

> Consciousness of this fundamental law may be called a fact of reason because one cannot reason it out from antecedent data of reason for example, from consciousness of freedom (since this is not antecedently given to us) and because it instead forces it-self upon us of itself as a synthetic *a priori* proposition that is not based on any intuition… it must be noted that it is not an empirical fact but the sole fact of pure reason which, by it, announces itself as originally lawgiving.[52]

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[51] Wood, *Kant*, p78. 'This is an "idea" [or 'fact'] of reason because it is a concept generated *a priori* by reason, to which nothing given in the sensible world does (or even could) correspond. The compelling grounds for us to form the ideas are taken as evidence for the existence of their objects, and the characteristics we ascribe to the ideas owing to their origin in reason are taken as cognitions of these objects.' Rawls understanding of the 'fact of reason' is based on the first appendix to Chapter 1 of the *Analytic of the Critique of Practical Reason*. He stresses that this is radically different from Kant's derivation of the moral law in *The Groundwork* from the idea of freedom. Rawls' interpretation is that 'Kant says that the moral law can be given no deduction, that is, no justification of its objective and universal validity' however the moral law nevertheless stands as a 'fact of reason', indicating that 'in our common moral consciousness we recognize and acknowledge the moral law as supremely authoritative and immediately directive for us'. And further, that the moral law 'provides not only the possibility but also the actuality of freedom in those who recognize and acknowledge that law as supremely authoritative. The moral law thus gives objective, although only practical, reality to the idea of freedom…'. John Rawls, 'Themes in Kant's Moral Philosophy', *Kant's Transcendental Deductions*, ed. Eckart Forster Stanford University Press, 1989, p517.

[52] Kant, *Critique of Practical Reason*, pp28-29. See also: 'since nothing in appearances can be explained by the concept of freedom and there the mechanism of nature must instead constitute the only guide; since moreover, the antinomy of pure reason when it wants to ascend to the unconditioned in the series of causes gets it entangled in incomprehensibilities on one side as much as on the other, whereas the latter (mechanism) is at least useful in the explanation of appearances, one would never have to venture to introduce freedom into science had not the moral law, and with it practical reason, come in and forced this concept upon us'. Kant, *Critique of Practical Reason*, p27.

Kant is arguing here that by virtue of our Reason we are 'forced' to acknowledge the authority of the moral law, and hence have access to a sign of our freedom. While he is on the one hand careful to insist that we can have no knowledge of our transcendental freedom he is nevertheless prepared to assert that human beings possess 'practical freedom'. This is a 'capacity to act on principles we give ourselves through reason, and to resist the pull of the desires arising from our natural needs as living beings'.[53]

> To have a will … is to have the ability to determine [one's] causality by the representation of rules, …capable of actions in accordance with principles and consequently also in accordance with *a priori* practical principles … it applies to all finite beings that have reason and will … [54]

As Wood emphasises, however, while Kant even goes so far as to say that 'practical freedom' (our capacity 'not to be immediately necessitated by our sensuous impulses, but to choose how and whether to act as they give us incentives to act') can be proved empirically, because human beings show themselves to have this capacity, but brutes do not, this still does not remove for Kant the metaphysical grounds for doubting the freedom of the will.[55]

Kant forges a link then, between his transcendental notion of a free cause and moral action by asserting that through our reason, we have a sign of our freedom in the moral law, and that while we can not *know* that we are transcendentally free, nor have experiential, empirical knowledge of this freedom, we can be *practically* free (ie exercise our freedom) by acting in the light of a priori moral principles.

So far I have underlined the epistemic status of Kant's notions of unconditioned freedom, (ie that it can not be an object of empirical knowledge) and of the moral law (ie a 'fact of reason') within the context of

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[53] Wood, *Kant*, pp96-97.

[54] Kant, *Critique of Practical Reason*, p29.

[55] Wood, *Kant*, p99.

Kant's transcendental idealism: the authority of the moral law is grounded in unconditioned freedom, rather than any substantive concept of freedom, of reason, or of the good. I have highlighted these features because I do seek to construct a substantive account of autonomy, founded on the notion of unconditioned freedom. A substantive Kantian account of autonomy grounded in unconditioned freedom must consequently address Kant's insistence that we can have neither knowledge, nor, in the Kantian sense of the word, experience of this freedom.

How well then do Rawls' and O'Neill's constructivist appropriations of Kant's extension of the moral law, the Categorical Imperative, to justify substantive principles of distributive justice and ethics cohere with this Kantian framework?

Rawls' Kantian Constructivism and Kant

Rawls comes closest to a definition of constructivism when he states that constructivism 'specifies a particular conception of the person as an element in a reasonable procedure of construction, the outcome of which determines the content of "first principles of justice"'.[56] Larry Krasnoff identifies three crucial features of Rawls' constructivism reflected in this 'definition':[57]

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[56] Rawls, 'Kantian Constructivism in Moral Theory', p516. Krasnoff, 'How Kantian Is Constructivism?' p386. Rawls' characterises his later 'political' liberalism as addressing the question 'how is it possible for there to exist over time a just and stable society of free and equal citizens who still remain profoundly divided by reasonable religious, philosophical, and moral doctrines?' John Rawls, *Political Liberalism* Columbia University Press, New York, 1993, p47.

[57] Krasnoff, 'How Kantian Is Constructivism?' p386. This characterisation of Rawls' constructivism corresponds closely with Bagnoli's more general definition of constructivism as consisting of first, the basis of construction, assumptions about human agency; second, the 'methods for constructing and the constraints that bear on construction' and third the object of construction, (ie for example principles of justice). Bagnoli, 'Moral Constructivism: A Phenomenological Argument', pp131-132.

First Krasnoff states that Rawls' constructivism requires a substantive conception of the person – 'that we specify a thick, practical conception of the person as an agent, laden with practical interests and goals'. Here persons are identified as rational, reasonable, and as possessing both a particular conception of the good and a sense of justice.[58] Second, it appeals to a procedure of construction, 'a particular procedure by which the specified persons "construct" moral or political principles'. This 'must do some real work that takes us beyond the specified conception of the person'.[59] Third, it makes the claim that whatever is the outcome of the procedure (ie moral and political principles) is morally justified.[60] Rawls specifies that '[w]e should not say that moral facts are constructed' but rather 'a constructivist procedure provides principles and precepts that specify *which* facts about persons, institutions, and actions, and the world generally, are relevant in moral deliberation. These norms specify which facts are to *count* as reasons'.[61]

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[58] Krasnoff, 'How Kantian Is Constructivism?' pp386-387. For Rawls' distinction between the reasonable and the rational see Rawls, *Political Liberalism*, pp48-54. Rawls: 'a Kantian doctrine joins the content of justice with a certain conception of the person; and this conception regards persons as both free and equal, as capable of acting both reasonably and rationally, and therefore as capable of taking part in social cooperation among persons so conceived.' This concept of the person is understood to be 'implicitly affirmed' in the culture of a democratic society (or 'would prove acceptable to citizens once properly presented and explained'. Rawls, 'Kantian Constructivism in Moral Theory', p518.

[59] Krasnoff, p387. That is, to be a constructivist theory, the conception of a person must be used (merely) as an 'element' of a procedure in which persons construct a moral or political doctrine. In contrast, a theory which emphasises a conception of a person as, say, autonomous, could hold that morality is about promoting conditions under which persons could develop, maintain and exercise their autonomy. 'To get to constructivism we have to specify a procedure or mechanism in which the autonomous persons themselves selected the principles or institutions that would count as morally justified.'

[60] Krasnoff, 'How Kantian Is Constructivism?' p387.

[61] Rawls, 'Themes in Kant's Moral Philosophy', p516. (Italics in quote)

On this reading Rawls' constructivism emerges as a kind of hypothetical proceduralism, a view proposed by Brian Barry that Rawls has also endorsed.[62]

There has been much debate over the extent to which Rawls' appropriations of Kant are true to Kant's original theory.[63] As noted above in Rawls' defense he does explicitly acknowledge as early as in *A Theory of Justice* that his Kantian approach is indebted to, but not strictly derived from Kant. In the following I draw attention to the discrepancies between Rawls' and Kant's respective treatments of the Categorical Imperative to highlight the tensions between Rawls' approach and Kant's commitments to the unconditioned nature of the source of the authority of the CI. I do this as a prelude to arguing that a more fruitful approach to theorising autonomy and the possibility of trans-cultural justice will give priority to ensuring that it coheres with this fundamental Kantian commitment.

The Categorical Imperative Procedure

Central to Rawls' Kantian Constructivism is the 'Categorical Imperative Procedure' (CIP), an interpretation of the process through which human beings apply the Categorical Imperative (CI) to determine the moral worth of

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[62] Brian Barry, *Theories of Justice* University of California Press, Berkeley, 1991, pp264-271. As Krasnoff points out, however, this contractarian/proceduralist view of Rawls' constructivism does not distinguish Rawls' Kantian constructivism from other forms of contractarianism; this contractarian view could equally apply, to other theorists (Hobbes, Habermas, Scanlon and Barry) for whom 'what is good or right is what is chosen by certain persons under certain conditions'. He suggests an alternative way to capture what is distinctive to (Rawls') constructivism is to emphasise that on this approach 'ethical truths are made, not found'. When this is the focus of characterisation, it is Rawls' method of reflective equilibrium that comes to the fore. Krasnoff, 'How Kantian Is Constructivism?' p389. See also O'Neill's discussion comparing constructivism and contractualism in Onora O'Neill, 'Constructivism Vs. Contractualism', *Ratio*, 16.4, 2003, pp319-331.

[63] See for example O'Neill, 'Constructivism in Rawls and Kant', pp347-367; O'Neill, 'Constructivism Vs. Contractualism', pp319-324; Krasnoff, 'How Kantian Is Constructivism?' pp385-409.

a particular course of action. It needs to be noted at the outset that Kant specifies that in contrast to the moral law, which is an idea of reason and specifies a principle that applies to all reasoning beings 'whether or not they are like us finite beings with needs', the CI is the form this law takes in the case of human beings with needs and desires; it tells us what we ought to do *contrary* to what we might otherwise be inclined to do as empirically conditioned selves who do not immediately recognise the authority of the moral law. As Kant writes: '... insofar as they are affected by needs and sensible motives, not a holy will that is, such a will as would not be capable of any maxim conflicting with the moral law'.[64] As I understand it, the relevant feature of this distinction is simply that human beings would experience the moral law as a constraint, whereas holy beings would not.[65] Following on from this, the CI's standing as a version of the moral law, modified to apply to human beings, (ie with desires and fears etc.) in no way changes the unconditioned as distinct from empirical or substantive source of authority and nature of both; nor can a procedure for the application of the moral law or the CI, and hence determinate, empirical assumptions about human beings, be derived from Kant's formal accounts of the moral law and the CI – at least from the point of view of his transcendental philosophy.

Rawls presents the CIP as a four-step procedure which describes the application of the 'moral law' and the CI in the formula of universal law. Rawls characterises this procedure as designed to help 'to determine the content of the moral law as it applies to us as reasonable and rational persons endowed with conscience and moral sensibility', as affected, but not determined by desires and inclinations (as part of the order of nature).[66] That is, it 'adapts the CI to our circumstances by taking into account the normal

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[64] Kant, *Critique of Practical Reason*, p29.

[65] As Kant writes: '… insofar as they are affected by needs and sensible motives, not a holy will that is, such a will as would not be capable of any maxim conflicting with the moral law'. Ibid. .

[66] Rawls, 'Themes in Kant's Moral Philosophy', p497.

conditions of human life …'[67] The justificatory device of the Original Position can be understood to be modelled on Rawls' construal of the CI procedure.[68]

On Rawls' account the CI procedure can be broken down into four steps. For our purposes it is the first that is the most significant: [A] the agent, who is assumed to be rational and sincere, and taking into account what he or she regards as the relevant features of his or her circumstances, first selects a Rational Maxim (for example, 'I am to do x in circumstances c to get y').[69]

The following three steps ask the agent to [B] generalise the precept to apply to all, [C] convert this precept to a law ('as if by a law of nature'), [D] combine this new 'law of nature' with 'existing laws of nature', and then calculate the effects of the 'newly adjoined laws of nature'. The new order of nature then 'settles out' giving rise to what is called a 'perturbed social world'.[70] In the light of these steps Rawls argues that 'Kant's categorical

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[67] Ibid. .

[68] This is evident when Rawls, contrasting focus on the individual within Kant, and on the citizen within the Original Position (OP), presupposes that the relevant point of comparison is not Kant's CI but Rawls' interpretation of the CI *procedure*; ie whereas Rawls assigns 'primacy to the social' ('the first subject of justice is the basic structure of society, and citizens must arrive at a public understanding … for this subject'), Rawls claims that Kant's CI applies to the personal maxims of 'sincere and conscientious persons in everyday life'. Rawls, 'Kantian Constructivism in Moral Theory', p552. See O'Neill, 'Constructivism in Rawls and Kant', p352.

[69] Or in an alternative formulation: a hypothetical imperative is selected, a maxim that rational and sincere agents might arrive at given the normal circumstances of human life.

[70] Rawls's account continues: Second, the agent generalises the maxim/precept: 'Everyone is to do x in c to get y'. Third, this is converted into a publicly recognisable law of (human) nature: 'Everyone always does x in c to bring about y (as if by a law of nature)'. Fourth, the law of nature at Step 3 is adjoined to existing laws of nature (as understood by us). The agent then calculates (as best he or she can) what the order of nature would be once the effects of the newly adjoined law of nature have had a chance to work themselves out. The new order of nature that 'settles out' as a result of the addition of the law of Step 3 to the other laws of nature is then called a 'perturbed social world' – which is then considered as the social world that is associated with the maxim in Step 1.

imperative can now be stated as follows': 'We are permitted to act from our rational and sincere maxim' at [A] only if (1) we can intend, as sincere and rational agents, to act from this maxim when we regard ourselves as a member of the perturbed social world associated with it, and (2) we can will this perturbed social world itself, and affirm it, should we belong to it.[71]

Rawls presents this account of the application of the CI as based on a 'highly schematic rendering of the Kant's conception of the CI' as found in O'Neill's *Acting on Principle*. In part justification of this interpretation Rawls directs us here to Barbara Herman's reflections on the CI procedure in which she asserts that 'the CI *procedure* interprets the formula in a manner suited to the limits of human understanding and the conditions of human judgment'.[72]

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[71] Rawls, 'Themes in Kant's Moral Philosophy', p500.

[72] See Barbara Herman, 'The Practice of Moral Judgment', *The Journal of Philosophy*, 82.8 (Aug.), 1985, p426. For justification Herman directs us here to "Of the Typic of Pure Practical Judgment" within the second *Critique.* Herman defends her interpretation as 'a normative reconstruction of Kantian ethics' more concerned to 'present a plausible moral theory that is clearly and distinctively Kantian' than with the 'historical Kant'. (p414) Her argument that 'there is a need in the Kantian system for some kind of independent moral knowledge' if actions are to be understood to be assessed by the CI (p416), is in part designed to counter criticisms of Kantian ethics, his account of moral judgment in particular, for its 'narrow rigorism, its abstraction from the particular, its inability to accommodate moral change and the absence of an account of moral sensitivity or perception' (p414, see also p424 where Herman argues that 'the Kantian agent *must* have a characteristic way of seeing'... and 'be trained to perceive situations in terms of their morally significant features'). Herman acknowledges that any solution to the 'motivation problem' – ie describing the nature of the agent's attachment to the Moral Law – must not compromise the autonomy of the moral agent. (p426) She seeks to show that what she calls 'Rules of Moral Salience' (RMS) – ie the moral knowledge required to employ the moral law – have a foundation source in the moral law. She also acknowledges that the RMS 'are not and can not be derived from the CI procedure' (p427). She argues that through the moral law as a Fact of Reason, we can know that we are moral agents (ie able to act as morality requires, even against strong inclination. (p427) Consequently '[t]he object of moral requirements and the task of moral judgment are to bring our will into conformity with the Moral Law: all willings are to express our natures as free and rational beings'. (p427) From here Herman argues that 'it is a part of the condition of human agency to be in a community' of free and equal persons like ourselves, constrained by the

This interpretation relies on making (with Kant, Herman suggests) several empirical assumptions about the nature of human reason, rationality and sincerity. This reliance on empirical assumptions is reflected in the following passage in which Rawls explicates this procedure. Here Rawls asks us to

> keep in mind throughout that Kant is concerned solely with the reasoning of fully rational and sincere agents. The CI-procedure is a schema to characterise the framework of deliberation that such agents use implicitly in their moral thought. He [ie Kant] takes for granted that the *application of this procedure presupposes a certain moral sensibility that is part of our common humanity*.[73]

The Typic of Pure Practical Judgment

Rawls' representation of the CI-procedure seems to correspond closely to Kant's conception, in his discussion of the 'typic' of pure practical judgment in the second *Critique*, of the 'rule of judgment' under laws of pure practical reason. Here Kant characterises the evaluation of the moral worth of a potential action as a process in which you 'ask yourself whether, if the action you propose were to take place by a law of the nature of which you were yourself a part, you could indeed regard it as possible through your will'.[74]

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moral law. And further, this conception of oneself as a moral agent among others 'sets the question that moral judgment is to answer: what are the activities we may perform as moral agents whose actions affect other moral agents? Herman argues that it is this conception of the agent which is the aspect of the Moral law, 'present to everyday moral consciousness' which provides the foundation for the RMS (ie 'pre-procedural moral rules')(pp427-428). 'The conception of ourselves and others that is derived from the Moral Law sets the terms of a *practical* task for a community of moral agents'(p429). She argues that there is evidence to support this account of the practice of moral judgment 'in the way that Kant sets out his examples, in the use he makes of ordinary consciousness in the groundwork and in a plausible interpretation of the practical import of the Fact of Reason'. However, there is not 'enough evidence to show the implicit presence of anything like RMS in any of Kant's texts'. (pp435-436)

[73] Rawls, 'Themes in Kant's Moral Philosophy', p498. Italics added.

[74] Kant, *Critique of Practical Reason*, p60.

Kant claims here that everyone does in fact appraise the moral worth of actions by this rule. People ask themselves whether, if they belonged to an order in which '*everyone* permitted himself', for example, to 'deceive when he believed it to be to his advantage' ... or alternatively, to look 'with complete indifference on the need of others', they would be in this order with the assent of their will.[75]

However, within the context of Kant's moral theory and transcendental metaphysics taken as a whole, acknowledgment that this is how people actually do go about making moral judgments must not have any bearing on the justification of moral principles.

Kant's Anti-empiricism

As I have already emphasised Kant is (at least for the most part) adamantly anti-empiricist in his formal accounts of freedom, autonomy and the authority of the moral law.

This is clearly evident, even within Kant's discussion of the typic of judgment, the section to which we are directed by Herman, via Rawls, to defend their view that Kant assumes human sensibilities in his account of moral judgment. In this section Kant is insistent, in his account of the source of the authority of the moral law, that this source must not be derived from anything empirical. He writes that a practical law (ie of action) is 'not a natural law through empirical grounds of determination but a law of freedom in accordance with which the will is to be determinable independently of anything empirical (merely through the representation of the law in general and its form)'.[76]

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[75] Ibid.

[76] Ibid., p59.

However, as Kant is committed to forging a link between his moral theory, grounded as it is in unconditioned freedom, and moral action (ie the action of the judging agent *in concreto*) he nevertheless finds an ingenious means to defend the link. He recognises the difficulty in writing that as 'all cases of possible actions that occur can be only empirical, that is, belong to experience and nature', and as 'the morally good as an object is something supersensible, so that nothing corresponding to it can be found in any sensible intuition', the judgment of pure practical reason is subject to special difficulties (which the exercise of pure reason did not have to overcome due to the faculty of intuition): a means must be found to explain how 'a law of freedom is to [be]applied to actions as events that take place in the sensible world and so, to this extent to nature'.[77]

Kant solves this problem by stipulating that as the 'moral law has no cognitive faculty other than the understanding', and as the understanding can only put 'under the idea of reason' a law, the understanding can borrow, if you like, the idea of a law of nature from the realm of the sensible, and employ only its form, removing any empirical content. The understanding can then use this idea of a natural law as a model for the employment of the moral law within the realm of nature. Kant refers to this merely formal law as the type of the moral law: the law that 'the understanding can put under the idea of reason on behalf of judgment'. Such a law is 'a type for the appraisal of maxims in accordance with moral principles'.[78] Kant defends this approach, explaining that

> This is how even the most common understanding judges; for the law of nature always lies at the basis of its most ordinary judgments, even those of experience. Thus it has the law of nature always at hand, only that in cases where causality from freedom is to be appraised it makes that *law of nature* merely the type of a *law of freedom*, because without having at hand

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[77] Ibid., p60

[78] Ibid.

> something which it could make an example of in a case of experience, it could not provide use in application for the law of a pure practical reason.[79]

However, having stated that he must draw from nature the idea of a law, to link the idea of freedom to the practice of morality, he nevertheless emphasises that in so doing he must not in any way imply that a source of the authority of the moral law lies within the empirical realm.

> … since of all the intelligible absolutely nothing [is cognised] except freedom (by means of the moral law), and only this insofar as it is a presupposition inseparable from the moral law; and since, moreover, all intelligible objects to which reason might lead us under the guidance of that law have in turn no reality for us except on behalf of that law and of the use of pure practical reason, although reason is entitled and even required to use nature (in the understanding's pure form of nature) as the *type* of judgment.[80]

He continues that it needs to be noted that the 'typic of judgment, guards against *empiricism* of practical reason'… as empiricism

> destroys at its roots the morality of dispositions (in which, and not merely in actions, consists the high worth that humanity can and ought to procure for itself through morality), and substitutes for it something quite different, namely in the place of duty an empirical interest, with which the inclinations generally are secretly leagued…[81]

Further, Kant writes in *The Groundwork* that '[e]veryone must admit that if a moral law is to have force, ie to be the basis of obligation, it must carry with it absolute necessity', that is, it must hold not only for man but for all rational beings.[82] Following on from this

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[79] Ibid.

[80] Ibid., p61.

[81] Ibid.

[82] Kant, *Fundamental Principles of the Metaphysic of Morals*, p11.

> …the basis of obligation must not be sought in the nature of man, or in the circumstances in the world in which he is placed, but *a priori* simply in the conceptions of pure reason. [83]

In addition, although precepts which are founded on principles of 'mere experience may be in certain respects universal', to the extent that these rest 'even in the least degree on an empirical basis, perhaps only as to a motive' they 'can never be called a moral law'.[84] Consequently 'all moral philosophy rests wholly on its pure part' and '[w]hen applied to man, it does not borrow the least thing from the knowledge of man himself (anthropology) but gives laws *a priori* to him as a rational being'.[85]

Kant is clear that the source of authority of the moral law is Reason, which Kant identifies here not with the empirical, but with that which is free from any empirical interest – the unconditioned.

I am arguing then, that while Kant, within his reflections on the empirical exercise of moral faculties, acknowledges the role of capacities for reason in the process of applying the moral law, (including, as Herman specifies, recognising what constitutes a maxim of action) and also our capacity to recognise the authority of the moral law, he is insistent that no appeal can be made to empirical assumptions about human capacities or nature, either to defend the authority of the moral law, or bring substantive content to his notion of transcendental freedom.

Consequently Rawls' appropriation of Kant's defence of the Categorical Imperative, which appeals to substantive assumptions about human reason and moral sensibilities, diverges significantly from Kant's original view of

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[83] Ibid., pp11-12.
[84] Ibid., p12.
[85] Ibid. .

the source of the authority of the moral law and its extension, the Categorical Imperative.

Distinguishing Between the Empirical and the Formal in Kant

Kant's distinctions between his formal accounts of the authority of the moral law and his assertions about human experience of practical reason are justifiably cause for confusion. A major reason for this, I suggest, is that while Kant identifies reason as a source of the authority of the moral law, it is not always clear that he is referring to the pure laws and workings of reason, as distinct from the actual exercise of substantive critical faculties of reason and the substantive procedures and standards this entails. Further, while at some points he refers to unconditioned freedom or freedom of the will as something which can only be posited as an idea of reason, in the remarks which follow his first statement of the moral law and his specification that this must stand as 'not an empirical fact but the sole fact of pure reason', he goes on to identify the will as an empirical 'ability', stating that the 'fact' that pure reason gives a universal law which we call the moral law is 'undeniable':

> One need only analyse the judgment that people pass on the lawfulness of their actions in order to find that, whatever inclination may say to the contrary, their reason, incorruptible and self-constrained, always holds the maxim of the will in an action up to the pure will, that is, to itself inasmuch as it regards itself as *a priori* practical. Now this principle of morality, just on account of the universality of the lawgiving that makes it the formal supreme determining ground of the will regardless of all subjective differences, is declared by reason to be at the same time a law for all rational beings insofar as they have a will, that is *the ability* to determine their causality by the representation of rules, hence insofar as they are capable of actions in accordance with principles and consequently also in accordance with *a priori* practical principles.[86]

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[86] Kant, *Critique of Practical Reason*, p29. Italics added.

This confusion is compounded by Rawls' Kantian Constructivism, in which Rawls suggests that the procedure of construction (ie the conditions of the Original Position and the assumptions brought to it) stands, in some Kantian sense, as a representation of our freedom and equality.[87]

Rawls seems to find some justification for his introduction of empirical content into his interpretation of the CIP, and his identification of this procedure with Kantian freedom and equality, in his understanding of Kant's 'authentication' of the moral law. In his discussion of the moral law as a Kantian 'fact of reason', Rawls does not emphasise that aspect of Kant's notion of the 'fact of reason' which affirms the non-empirical source of the authority of the moral law. Rather, his reading emphasises the contrasts between the different qualities and authentications of the four different kinds of reason:[88]

Rawls' states that understanding of the authentication of the moral law as a 'fact of reason', is based on the first appendix to Chapter One of the *Analytic of the Critique of Practical Reason*. Rawls stresses that this 'authentication' of the moral law differs significantly from Kant's derivation of the moral law from the (transcendental) idea of freedom in the (earlier) *Groundwork*. Rawls

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[87] In an essay in which Rawls sets out to 'bring out the more central themes in Kant's constructivism' Rawls states that to do so he must provide a schematic account of the CI. He states that this account is intended (only) to set the background for explaining the (sequence of) conceptions of the good and Kant's moral constructivism. To serve this purpose the procedure must first, '*not represent the requirements of the moral law as merely formal*; otherwise, the moral law lacks sufficient content for a constructivist view' and second, 'it must have features that enables us to see what Kant means when he says that the moral law discloses our freedom to us'. Rawls, 'Themes in Kant's Moral Philosophy', p502.

[88] For an alternative interpretation of the moral law which both affirms the 'unity of practical and theoretical reason' and also that 'freedom and autonomy are at the heart not just of morality but of all reasoning' see Onora O'Neill, 'Reason and Autonomy in *Grundlegung* 3', *Constructions of Reason: Explorations in Kant's Practical Philosophy* Cambridge University Press, Cambridge, 1989, pp51,52.

believes that the significance of Kant's shift, is that in the *Critique* Kant recognises the different roles each of the kinds of reason play in the unity of reason, and hence that each form of reason would receive a different kind of authentication:[89] Following on from this, Rawls highlights the contrast between the *directive* nature of pure practical reason and the moral law, and the *regulative* role of 'empirical practical reason'. He argues that whereas the latter organises various desires and inclinations belonging to the lower faculty of desire by the principle of the hypothetical imperative, pure practical reason (the higher faculty of desire, the power of choice') immediately directs the power of choice, 'which does not provide independent material of its own to be organised'.[90]

Rawls' interpretation of the moral law as a Kantian 'fact of reason' reflects this shift in emphasis away from Kant's view of the non-empirical source of the authority of the moral law. Rawls acknowledges that 'the moral law can be given no deduction, that is, no justification of its objective and universal validity'. He nevertheless stresses that the moral law's standing as a 'fact of reason' indicates that 'in our common moral consciousness we recognize and acknowledge the moral law as supremely authoritative and immediately directive for us'. And further, the moral law

> provides not only the possibility but also the actuality of freedom in those who recognize and acknowledge that law as supremely authoritative. The moral law thus gives objective, although only practical, reality to the idea of freedom…[91]

It is evident here that for Rawls the primary significance of the 'fact of reason' status of the moral law is that it indicates of the practical reality of the moral law.

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[89] Rawls, 'Themes in Kant's Moral Philosophy', pp518-519.

[90] Ibid.

[91] Ibid., p517.

Rawls' account of the Kantian 'fact of reason' can be contrasted with Alan Wood's interpretation which emphasises the non-empirical nature of the 'fact' of reason (Wood refers to the 'facts of reason' as 'ideas' of reason). Reflecting on the idea of freedom, Wood writes

> This is an 'idea' [or 'fact'] of reason because it is a concept generated *a priori* by reason, to which nothing given in the sensible world does (or even could) correspond.[92]

Similarly, Krasnoff presents the doctrine of the fact of reason as indicating that morality is not an illusion, and we are in fact transcendentally free, because we do take ourselves to stand under moral laws. Krasnoff also takes an anti-realist view of this doctrine: He argues that Kant regards justification as ultimately practical rather than theoretical, and would count as a constructivist in the anti-realist sense of rejecting realism 'by holding that moral facts or truth are constituted by our moral beliefs'. For Kant 'The force of morality, and the reality of freedom, rests finally on our taking ourselves to be the sort of beings who are capable of responding to unconditional rational demands'.[93]

Rawls, Wood and Krasnoff all interpret Kant as utilising the notion of a 'fact of reason' to affirm the practical authority of the moral law. However, it remains that Kant insists, even in the passage in the second *Critique* to which Rawls refers, that the authority of this 'fact of reason' must owe nothing to the empirical:

> … it is requisite to reason's lawgiving that it should need to presuppose only *itself*, because a rule is objectively and universally valid only when it

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[92] Wood, *Kant*, p78.

[93] Krasnoff, 'How Kantian Is Constructivism?' p407. See Kant Critique of Practical Reason, Edition of the Prussian Academy, pp29 -31.

> holds without the contingent, subjective conditions that distinguish one rational being from another.[94]

I would suggest that an anti-realist, non-empiricist interpretation of the doctrine of the fact of reason coheres best with Kant's commitments (within *The Groundwork* and elsewhere) to the unconditioned as fundamental to human dignity, his formal account of autonomy and the authority of the moral law. Consequently the proposed substantive conception of autonomy will seek to cohere with these commitments by itself being fundamentally grounded in the unconditioned, rather than any determinate, empirical assumptions about the good or human freedom. By emphasising Kant's statements concerning the *existence* of human freedom and the differences between the four forms of reason, Rawls is downplaying the tension between Kant's transcendental philosophy and less formal anthropological observations, a tension to which Kant returns repeatedly throughout his writing. By grounding his justification of principles of justice in empirical assumptions about the good, Rawls' account conflicts with Kant's insistence that the authority of the moral law must be grounded, fundamentally, in unconditioned freedom and reason.

O'Neill's Anti-Empiricist Critique of Rawls

O'Neill, a one-time student of Rawls, is highly critical of Rawls' appeal to empirical assumptions about reason and the human good to defend his principles of justice. She argues that within *A Theory of Justice*, Rawls' constructive procedure the Original Position, which she argues is built (ie at its foundations) on 'a solely instrumental conception of rationality' departs fundamentally from Kant; such a procedure would produce principles of justice which Kant would have rejected as 'heteronomous'.[95] O'Neill argues

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[94] Kant, *Critique of Practical Reason*, p18.

[95] O'Neill, 'Constructivisms in Ethics', p207. O'Neill argues that much contemporary ethical and political theory – including 'Kantian' writing 'relies on a family of broadly empiricist

that Rawls averts the danger of heteronomy by 'shrouding the original position' in the veil of ignorance which stipulates that those party to the Original Position (OP) and engaged in the process of selecting principles of justice for the evaluation of social institutions do not know their particular identities, desires or circumstances. However, because 'instrumental reasoning is wholly at sea unless oriented by some goals', Rawls must 'lift the veil enough to allow knowledge that certain "primary" goods – rights and liberties, powers and opportunities, income and wealth – are universally desired'. These desires are presented so as to ensure that parties to the OP are mutually disinterested. [96]

Within *A Theory of Justice* Rawls presents the original position as grounded on 'widely held but weak premises' informed by rational choice theory and a minimal, metaphysically undemanding account of the self.[97] In his later 'political' revisions he acknowledges that an ideal of the moral person, of moral powers (the capacity to develop a sense of justice and a conception of the good) and of primary goods grounds his theory. Here the agents of construction within the OP are 'moved solely by the highest-order interests in their moral powers and by their concern to advance their determinate but unknown final ends'.[98]

O'Neill argues that within his later work (and to avoid any 'obscure and panicky' Kantian metaphysics) Rawls must consequently defend these conceptions of the person and the good. However, because he disavows making any metaphysical claims, he is left with the undesirable choice of either proceeding from unvindicated premises (as he can not appeal to any

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theories of action in which reason and desires, or preferences, are the key elements'. Onora O'Neill, 'Action, Anthropology and Autonomy', *Constructions of Reason: Explorations in Kant's Practical Philosophy* Cambridge University Press, Cambridge, 1989 p66.

[96] O'Neill, 'Constructivisms in Ethics', pp207-208.

[97] See Rawls, *A Theory of Justice*, pp16, 47, 19.

[98] O'Neill, 'Constructivisms in Ethics', p210 quoting Rawls, 'Kantian Constructivism in Moral Theory', p528.

substantive conception of the good required to justify them) or, and this is the solution he opts for within his later essays, employing a 'recursive vindication': he appeals to the underlying conceptions of free and equal citizenship to which 'we' as members of the public, political community of modern democratic polity adhere (or would do so once 'properly presented and explained').[99] Rawls must pay a heavy price for appealing to 'our' tradition however: his constructivism is reduced to offering only a coherent, internalist articulation of the outlook of modern liberal society.[100]

O'Neill's birds-eye, Kantian critique of Rawls, shows that departure from Kant's original insistence on the non-empirical foundations of his moral theory has eventually lead Rawls to have to restrict the scope of the substantive reach of his principles of justice to societies in which there can be general, public-sphere, 'overlapping', consensus on the assumptions about moral agency and reason, on which he builds his theory.[101]

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[99] See Rawls, 'Kantian Constructivism in Moral Theory', p518.

[100] O'Neill, 'Constructivisms in Ethics', p211.

[101] Ibid.   Kukathas also criticises Rawls' 'political' liberalism, arguing that if it does not stand as a particular 'comprehensive' (ie substantive, metaphysical) doctrine, it is hard to see how it can stand as a normative doctrine of any kind. Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, p16. Krasnoff makes further criticisms of Rawls' appropriations of Kant, arguing that Kant's theory fits uneasily with all of the three features he identified as characterising Rawls' constructivism. In contrast to the hypothetical procedure of the OP: first, the CI does not *produce* principles, but rather provides a negative check on principles that individuals bring to it; second, the CI does not require any hypothetical choice – rather it asks whether *all* persons *could* choose the particular maxim that an individual hopes to follow; what is at issue here is not hypothetical agreement but *possible agreement*; third, in contrast to the OP, the CI is concerned with not hypothetical individuals but actual individuals in this world. That is, the CI asks 'whether we can imagine the universalisation of our maxim in our world'. Krasnoff, 'How Kantian Is Constructivism?' pp400-401.

O'Neill's Kantian Constructivism

Reflecting Kant's commitment to deriving the authority of the moral law from purely formal reason, O'Neill suggests that a more persuasive form of (Kantian) constructivism 'might begin by abstracting from the circumstances of justice, meagrely construed.' In the light of her constructivist reading of Kant (discussed in detail in the following chapter) she argues that the very problem of (egalitarian) justice arises out of the conditions of a plurality of 'at least potentially interacting agents'; that is, agents who must share a world. Further, such a form of constructivism will proceed from 'the *least determinate* conceptions both of the rationality and of the mutual independence of agents'.[102] She argues that 'everything hinges on constructing principles of justice without presupposing a determinate ideal of the person'.

> The core of any such construction is the thought that there are certain constraints on the principles of action that could be adopted by all of a plurality of potentially interacting agents of whom we assume only minimal rationality and indeterminate mutual independence. Principles that can not be acted on by all must be rejected by any plurality for whom the problem of justice arises.[103]

She argues that these 'meagre' starting points issue in the following 'modal' (ie merely formal) question: 'What principles can a plurality of agents of minimal rationality and indeterminate capacities for mutual independence

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[102] O'Neill, 'Constructivisms in Ethics', p212 For O'Neill's distinction between abstractions and idealisations see Onora O'Neill, 'Practical Reason: Abstraction and Construction', *Towards Justice and Virtue: A Constructive Account of Practical Reasoning.* Cambridge University Press, Cambridge, 1996, pp38-39. O'Neill argues that the advantage of '[r]easoning that abstracts, in a strict sense, from a predicate, is that it makes claims that do not depend on that predicate holding, or on its not holding'. In contrast, idealisations ascribe predicates – often seen as enhanced, 'ideal' predicates – that are false of the case in hand, and reasoning which proceeds from these can easily lead to falsehoods. 'Insofar as contemporary theories of justice start by assuming 'ideal' conceptions of persons, rationality or independence they not merely abstract. They assume rather than establish specific ideals.'

[103] O'Neill, 'Constructivisms in Ethics', p215.

live by?'.[104] Her theory 'yields a minimal, negative condition that practical reasoning must satisfy in order to count as reasoned: practical reasoning, or a proposed practical principle, must be *followable* by all others for whom it is to count as reasoning'.[105]

O'Neill argues that her constructivism is more persuasive than Rawls' which proceeds from idealisations about reason and the moral subject, finding a middle ground between an unvindicated realism and a culturally-relative anti-realism. If a theory is to arrive at principles with rational authority for all agents in the relevant domain, potentially issuing in substantive normative principles of justice of universal and cosmopolitan scope, the basis of the theory, the assumptions about human agency and reason from which it proceeds must be strictly limited, based on an accurate assessment of the capacities and limitations of human agents.[106]

> Constructivism in ethics, or specifically about justice, is in the first instance the claim that their principles are not established by metaphysical arguments, or discovered in the world, but that they must be constructed on the basis of plausible, no doubt abstract, assumptions.[107]

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[104] Ibid., p213. O'Neill's answer: no plurality can choose to live by principles which aim to destroy, undercut or erode the agency (of whatever determinate shape) of some of its members.

[105] This condition has two aspects: that a proposed principle must at least aim to be followable in thought, that is, intelligible to those to whom it is addressed, and all in the relevant domain must be able to adopt the principle without incoherence. O'Neill, 'Practical Reason: Abstraction and Construction', pp51, 55, 57.

[106] Andrews Reath, 'Towards Justice and Virtue: A Constructive Account of Practical Reasoning (Review)', *Ethics*, 110.4, 2000, p855. See O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*, p63: 'To construct is only to reason with all possible solidity from available beginnings, using available and followable methods to reach attainable and sustainable conclusions for relevant audiences'.

[107] O'Neill, 'Practical Reason: Abstraction and Construction', pp45, 63.

O'Neill also stipulates that a constructivist theory must vindicate the methods of reasoning by which principles are constructed.[108] To defend her choice of grounding minimalist abstractions, O'Neill appeals to her constructivist reading of Kant's vindication of reason (see below).

O'Neill's Inadvertent Foundationalism

O'Neill's commitment to proceeding from mere abstractions rather than idealisations would seem to more closely reflect Kant's commitment to deriving the moral law from non-empirical assumptions than does Rawls' account which proceeds from idealisations.[109] However, O'Neill's constructivist approach does nevertheless appeal – albeit obliquely – to quite thick, substantive claims about human subjectivity, moral reasoning in particular. As Allen Wood argues,

> What constructivism seems to involve is a *selective* agnosticism about the human good. Thus O'Neill's Kantian constructivism affirms the value for human beings of exercising their rational agency; it seeks to protect that value at all costs, treating other components of the human good as derivable from that one. There by it threatens to involve itself in a conception of the human good that is not merely an abstraction but also an idealization, since we cannot estimate the actual value for existing human beings of exercising rational agency unless we can weigh it against other components of the human good.[110]

Andrews Reath raises a similar objection:

> Representing the basic requirement in this way as the result of a process of construction would show that, meagre as it is, it depends on extensive

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[108] Reath, 'Towards Justice and Virtue: A Constructive Account of Practical Reasoning (Review)', p2.

[109] Reath concurs that O'Neill's constructivism arguably demonstrates a stronger adherence than does Rawls to the commitment to a constructed account of moral order.

[110] Wood writes that 'it seems difficult to credit O'Neill's claim that her Kantian constructivism 'makes no appeal, however oblique, to transcendent moral claims'. Allen Wood, 'Book Review: Constructions of Reason', *The Philosophic Review,* 101.3 (July), 1992, p650 quoting from O'Neill, Constructions of Reason, p218.

> assumptions about reason, agency, and the circumstances of human action. This is not a problem for O'Neill as long as these assumptions raise no controversy. But this issue deserves exploration.[111]

Similarly, Krasnoff argues that if 'to act so as the principle or maxim of your action could be accepted by fully rational human beings, or more precisely, to avoid acting on a principle that they could not accept', is to stand as a substantive action-guiding ethical principle, then the account requires a conception of agency that imagines agents committed to rationally justified principles. For

> '[w]ithout this commitment there is no reason for us to consider the question of what principles could be justified. But if we take ourselves to be such agents, we can take ourselves to be committed to the Kantian principles that emerge from this inquiry.[112]

It would seem then, that at least to the extent that O'Neill's principles stand as potentially substantive principles which might inform action in practice, O'Neill assumes that human agency and rationality entails commitment to and capacity for a discursive form of rationality, the kind of reason one must employ to reflect on action in the light of principles. While O'Neill aims to proceed from abstractions rather than a thick set of substantive assumptions about the good, her theory nevertheless requires a raft of assumptions about human agency and rationality which are neither made fully explicit nor fully defended.

As I suggested above in regard to Rawls' procedural conception of practical reason, this not a problem within the context of Kant's moral theory if we are simply discussing the *application* of the moral law. The problem arises, however, if this procedure is identified with Kantian practical reason and

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[111] Reath, 'Towards Justice and Virtue: A Constructive Account of Practical Reasoning (Review)', p3.

[112] Krasnoff, 'How Kantian Is Constructivism?' p406. (note)

autonomy, for if it is assumed that a substantive capacity for reason is fundamental to practical reason and autonomy, then this assumption undermines the Kantian commitment to the unconditioned as the fundamental source of authority of practical reason and autonomy.

Practical Reason and Moral Autonomy Entails Reflection on Moral Laws

O'Neill's account of practical reason can be criticised for failing to proceed from mere abstractions as she intends, and assuming thick assumptions about discursive reason instead. This conflict within her account seems to mirror a confusing, if not problematic aspect of Kant's account: on the one hand Kant is committed to grounding morality in unconditioned freedom, something of which we can have no empirical knowledge, and which he also identifies with reason; on the other hand, at the same time he also characterises our *practical* freedom (and as we shall see below, faculty for enlarged mentality and the Public Use of Reason) as acting in the light of a principle of reason, a process which assumes substantive capacities of reason needed to reflect on principles or maxims of action in the light of the Categorical Imperative.

From the point of view of the present project, one of the key merits of O'Neill's anti-foundationalist, anti-empiricist, constructivist interpretation of Kant's view of reason's authority is that it proceeds from minimal, relevant assumptions: human plurality, a need for cognitive and moral order, rejection of violence or coercion and a common world. As we have just seen O'Neill defends her particular version of Kantian constructivism on the grounds that it proceeds from minimal abstractions concerning the human condition and an accurate assessment of the capacities and limitations of human agents.[113]

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[113] O'Neill, 'Constructivisms in Ethics', p215 O'Neill, 'Practical Reason: Abstraction and Construction', p40.

However, O'Neill's conception of practical reason does not presuppose such minimal rationality. An assumption which she shares with Kant, that an account of moral order or justice is fundamentally concerned with principles (or maxims or laws) of reason, in fact prohibits her from constructing a minimalist account of practical reason. This is because identification of the possibility of moral order as dependent on adherence to shared, authoritative moral principles (or principles of justice) assumes that reflection on possible courses of action in the light of such principles is integral to a conception of practical reason, and this in turn presupposes capacity for discursive reason.

O'Neill's unquestioned assumption that practical reason can be equated with the exercise of discursive reason is evident in the following passage in which she equates intelligibility with discursive reason.

As I have noted above, O'Neill's constructivist vindication of reason maintains that reason's authority rests on its standing as the commonality which must be assumed if moral order based on communication rather than force and coercion is to be possible, between an otherwise uncoordinated plurality of people. O'Neill equates this commonality with autonomy or self-determination, the rejection of both 'subordination to anything contingent' as well as nondetermination. She argues that the capacity for self-determination or autonomy 'in thinking and acting, is what we call reason' where the outward mark of reason is its intelligibility. What is crucial here is that for O'Neill 'intelligibility' is contingent on discursive rationality:

> When we view ourselves from the standpoint of the intelligible world … we view our acts, performed and prospective, as bearing the marks of reason, as having determinate and intelligible form, rather than as the effects of determining causal antecedents. Intelligibility is not a matter of being *explicable* in terms of theoretical reason; it is a matter of conforming (to some extent) to the standards of reason.[114]

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[114] O'Neill, 'Action, Anthropology and Autonomy', p69.

O'Neill equates the power of self-determination with the fundamental maxim of autonomy (and morality) 'to act only on maxims through which one can at the same time will that they be universal laws'. She characterises this principle as a 'commitment not to base action on anything contingent or arbitrary that would limit its intelligibility'.[115] On this view 'if human choice is not to be determined by sensuous impulses, it must be determined (intelligibly) by *principles* of action.'[116]

Following Kant, O'Neill is presupposing that intelligibility requires the exercise of reason – where reason is identified with standards, techniques of discursive reason are needed to act in the light of laws of reason such as the Categorical Imperative.[117] Full self-determination is equated with acting on a law that refers to nothing contingent and variable, that is, on a principle that can be acted on by any finite rational being, whatever that being's specific empirical characteristics.

Kant also presupposes that reason is constituted by capacities for discursive reason and that a critique of reason is concerned with the defence of principles of reason. This is clearly evident both within the first and second *Critiques*: the second *Critique* simply opens with a definition distinguishing between practical principles, maxims and laws, assuming that the focus of

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[115] Ibid., p76. 'To be free from alien causes is not to surrender to arbitrariness and unintelligibility, but to seek to ground action in something that is not alien. … hence the fundamental maxim of autonomy, as of morality, is to act only on maxims through which one can at the same time will that they be universal laws'.

[116] Ibid. Italics added.

[117] She continues: 'accidental observations, made according to no preconceived plan, cannot be united under a necessary law. But it is this that reason seeks for and requires. It is only the principles of reason which can give to phenomena the validity of laws'. Kant, *Critique of Pure Reason*, pp14, Bxii. O'Neill quotes Kant: 'philosophy cannot merely "strive only after speculative knowledge", but must be the "science of the highest maxims of our reason"' (L, IX, 24) Onora O'Neill, 'The Public Use of Reason', *Constructions of Reason: Explorations in Kant's Practical Philosophy* Cambridge University Press, Cambridge, 1989, p36.

discussion will be on establishing that objective practical moral laws are possible.[118] Kant states within the first *Critique* that all of the tasks of a critique of reason ('…to establish a tribunal, which may secure [reason] in its well-grounded claims, according to its own eternal and unchangeable *laws*', the 'solution of the question regarding the possibility or impossibility of metaphysics', the determination of its origin, extend and limits) 'must be done on the basis of *principles*'.[119] And in 'What is Orientation in Thinking?' he states that '…the purely practical use of reason consists in the formulation of moral laws'.[120]

Implications for a Substantive, Pluralist Theory of Autonomy

A substantive account of autonomy fully adequate to Kant's view that the ground of human dignity and freedom is freedom from any determinate cause, will have to address the Kantian presupposition that the practical realisation of moral autonomy entails critical reflection on possible courses of action in the light of moral principles, and hence the use of discursive reason.

Further, an account of autonomy/practical reason which seeks to employ minimalist assumptions concerning human commonality, must consider whether less determinate assumptions concerning the substantive exercise of reason than assumed by either O'Neill or Kant can be employed to construct an account which can also be vindicated as the commonality on which the possibility of un-coerced moral order rests.

As I argue further below in the light of O'Neill's interpretation of Kant's vindication of reason, what is at stake here is equality of respect: a maximally-capacious theory which seeks to as far as possible embrace

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[118] Kant, *Critique of Practical Reason*, p17.

[119] Kant, *Critique of Pure Reason*, p5. Italics Added.

[120] Immanuel Kant, 'What Is Orientation in Thinking?' *Kant's Political Writings*, ed. H. S. Reiss Cambridge University Press, Cambridge, 1991, p242'.

human plurality, will seek to embrace as wide a diversity of forms of rationality as possible, assuming only that minimal commonality that must be assumed to account for the possibility of un-coerced trans-cultural communication, and following on from this, moral order. This requires that care is taken to mitigate against the philosopher's natural bias towards discursive forms of rationality – a bias that is clearly evident in the following passage in which Jean Hampton, in spite of her clear commitment to the principle of equality of respect, identifies respectful treatment with philosophical engagement:

> [A] person who is committed to philosophising with another is rejecting the idea that she has a higher status that permits her to exercise control over the other's beliefs and is instead allowing and respecting her opponent's ability to formulate and decide on his own beliefs freely. Anyone committed to philosophiing with her opponent is thus committed to respecting him as a human being. That is, she is respecting him not necessarily as a virtuous person, or as a smart person, or as a person who satisfies any particular social ideal, but as a human being who can and ought to choose how to lead his own life… we have an obligation to arguing with, and thus respecting, our fellow human beings. [121]

Here the human good is being identified with what William Galston calls the Enlightenment Project – 'the experience of liberation through reason from externally imposed authority' where reason is understood to be the prime source of authority and the examined life superior to reliance on tradition or faith etc. [122] Concern to mitigate against this prejudice is expressed by Iris Murdoch who warns:

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[121] Jean Hampton, 'Should Political Philosophy Be Done without Metaphysics?' *Ethics*, 99.July, 1989, p813

[122] This is a view Galston rejects, arguing that it fails to adequately address human diversity. William A. Galston, 'Two Concepts of Liberalism', *Ethics*, 105.April, 1995, p525. He contrasts the liberal Enlightenment Project with the liberal Reformation Project, out of which developed liberal commitment to respecting diversity through toleration (pp525-526). In a more strident version of this criticism, Neal argues that adherence to the authority 'of some large and sovereign thing called Reason' can be an expression of 'our wish to avoid the responsibility that accompanies acting. The danger of it is that it is an

> in discussing virtue, as distinct from practising it, beware of seeming to suggest that the articulate educated man is better than the inarticulate uneducated man because he can think rationally and formulate and verbalise his distinctions… The virtuous peasant can imagine the results of what he does and knows in his experience what truthfulness is.[123]

While I agree with Hampton that 'if we are to work together in a system of cooperation, we have to have a 'common currency' … otherwise our 'society will be in ruins', I argue that this currency can be understood to be much less determinate than that which is required to engage in discursive debate.[124]

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intimation of cruelty, vicariously exercised every time the views of "those people" are dismissed on grounds that they refuse to accept the terms of reasonable discussion, reasonable rules of inference, reasonable rules of evidence… .' Patrick Neal, *Liberalism and Its Discontents* MacMillan Press, London, 1997, p157.

[123] Iris Murdoch, *Metaphysics as a Guide to Morals* Chatto & Windus, London, 1992, p324. Reflecting on her own relationship with 'Reason' as a philosopher, Sarah Ruddick writes that she, 'like many philosophers … learned to argue people down and to use the charge of irrationality to dismiss or intimidate'. Here she employed the reason of 'objectivity, self-control and detachment' – from emotional life, from the particularities of time and place, from personal quirks and prejudices, and, most centrally, at least according to Cartesian reason, from the object itself; a reason which 'both justifies domination (including the violence of war) and transcends the political uses to which it was put'. However, recognising that 'as destructive as Western ideals of reason may be, the capacity to reason is a human good' – there is 'real strength in steady judgment, self-reflectiveness, clear speech, and attentive listening', Ruddick seeks to reconceive a reason that strengthens passion rather than opposes it and refuses to separate love from knowledge. Ruddick, *Maternal Thinking: Towards a Politics of Peace*, pp6-9.

[124] Hampton, 'Should Political Philosophy Be Done without Metaphysics?' p809. On this view a meaningful pluralism entails 'the right not to offer a reason for being different'. William A. Galston, 'Expressive Liberty, Moral Pluralism, Political Pluralism: Three Sources of Liberal Theory', *William and Mary Law Review,* 40.3, 1999, pp5-6, quoting from Ira Katznelson, *Liberalism's Crooked Circle: Letters to Adam Michnik* Princeton University Press, Princeton, N.J., 1996, p171. Galston notes that here Katznelson is borrowing from Susan Mendus' metaphor of 'neighbourliness': we owe our neighbours civil behaviour that is mindful of the impact on them of what we do, but ordinarily 'neighbours do not owe each other reasons' for the way they choose to lead their lives. Radical democratic theorist James Bohman also defends a more open concept of reason. He too builds on O'Neill's reading of Kant's Public Use of Reason to conceptualise a deliberative reason for pluralist democracy. In contrast to a Habermasian theories which seek consensus, his seeks to

Further, recognition must be given to not only the diversity of forms of rationality which prevail, depending on the kind of activity in which people are engaged, but also, and associated with this, the different kinds of faculties people employ in the course of deliberating over possible courses of action. Whether due to education, cultural heritage or natural endowments, human beings will tend to favour faculties oriented more toward either thinking, feeling or sensing when processing information and making judgments.[125]

Two features of Kant's critical philosophy which will assist with the construction of such a minimally-determinate account can be noted at this point.

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explain how public interaction can issue in agreements that can motivate cooperation. He argues that key here is convincing argument, where the power to convince turns on the absence of restrictions in communication between audience and speaker. He argues that the absence of restrictions allows for greater self-criticism amongst deliberators: 'When deliberators become suspicious of previously accepted reasons and of the genuinely public character of their communication with one anointer, they then have new possibilities: they can consider alternative view-points and new reasons and thus reject entire forms of justification; or they may become aware of the hidden operation of power, prejudice, and authority in their own communication and beliefs'. Bohman, *Public Deliberation: Pluralism, Complexity and Democracy*, pp27-40. Bohman's conception of deliberative reason is significantly less determinate than, for example, Seyla Benhabib's interpretation of discourse ethics. See Seyla Benhabib, 'Deliberative Democracy and Multicultural Dilemmas', *The Claims of Culture: Equality and Diversity in the Global Era.* Princeton University Press, Princeton, New Jersey, 2002, pp138-142.

[125] This three-part typology of human judgment has been developed from empirical psychological studies. See Joseph O'Connor and John Seymour, *Introducing Neuro-Linguistic Programming* The Aquarian Press, London, 1993. In Chapter Six I construct what Ruddick has called a 'practicalist' view of 'truth' which embraces a plurality of forms of reason, emphasising the role human realms of 'practice' play in the constitution of different forms of rationality. Ruddick's 'practicalist' perspective holds that it is the goals that define a practice that define 'rationality', and that there are 'distinctive ways of knowing and criteria of truth which arise out of practices'. Ruddick, *Maternal Thinking: Towards a Politics of Peace*, pp13-16.

The first is a justificatory strategy which enables Kant (for the most part) to come closer to avoiding the conflict which arises when adhering to the unconditioned nature of the source of the authority of the moral law, while also to an empirical view of moral agency as entailing reflection on possible courses of action in the light of the Categorical Imperative (where the latter view presupposes the authority of discursive standards of reason). This strategy is to present the formal moral theory as not, principally, designed to defend moral principles intended for substantive, empirical use, but rather, as addressed, at least in the first instance, to philosophers.[126]

As Krasnoff argues, and in contrast to Rawls' constructivism, a constructivism which corresponds more closely to Kant's project neither 'offer[s] hypothetical procedures to carry out moral and political judgment' nor views its task as summarising 'ordinary convictions for use in public justification'. Kant sought merely to 'confirm' our ordinary practical convictions, which, following the doctrine of the fact of reason, states first, that agents with this conviction will choose the CI and the principle of publicity, and second, that such agents neither 'have nor need external support for their moral beliefs'.[127] In Kant's view ordinary moral agents are

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[126] Here I am making a distinction between the task of addressing the practical problem of reaching consensus and the theoretical task of justification a distinction which William Galston is often conflated within contemporary political philosophy of liberalism. Galston, 'Expressive Liberty, Moral Pluralism, Political Pluralism: Three Sources of Liberal Theory', pp6-7. See also Larmore's critique of the relevance of the epistemic doctrine of value pluralism for the defence of public principles. Larmore, 'Pluralism and Reasonable Disagreement', pp152-174.

[127] Krasnoff, 'How Kantian Is Constructivism?' p408. This is not to suggest that the ordinary person speaks in terms of maxims, imperatives, autonomy etc. but that ordinary moral reasoners are already committed to the practice that these technical terms imply. (p406) Kant's project responds to the suspicion commonly held by intellectuals of his time that ordinary morality was threatened by the modern idea of scientific realism. Krasnoff argues that rather than seeking, with Rawls, to defend potentially public principles of justice, a more persuasive liberal theory will understand itself, 'as Kant did: as defending ordinary citizens against both the cynical and the powerful'. Krasnoff, 'How Kantian Is Constructivism?' pp408-409. In the same vein Larmore criticises Habermas for deeming

not troubled by scepticism and so they do not need rational justifications for the CI – these are for the philosophically inclined.[128]

By limiting the audience to which his critical theory is addressed, and viewing it as intended for philosophical reflection rather than practical application, Kant is able to construct a formal account of moral autonomy which rightly, given the sphere of practice in which he is engaged, assumes of his audience both facility in the use of discursive reason as well as the authority of standards of discursive reason, but does not require that the same (albeit implicit) assumption be made of the wider population.[129] I employ something like this Kantian strategy of limiting the audience to which the proposed account is (at least in the first instance) addressed, to make a distinction between the theory's unconditioned ground and the philosophical standards of justification to which it appeals, in order to construct a maximally-capacious, minimally-determinate account.

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philosophical disenchantment with metaphysics as reason for defending potentially public, regulative principles of discourse ethics on merely post-metaphysical grounds. See Charles Larmore, 'The Foundations of Modern Democracy: Reflections on Jurgen Habermas', *The Morals of Modernity* Cambridge University Press, Cambridge, 1996, pp213-215.

[128] Krasnoff, 'How Kantian Is Constructivism?' p403. For Kant the ordinary reasoners are already committed to the idea of duty and to its implicit principle the CI. This does not mean that 'an ordinary person speaks of maxims, imperatives, autonomy and all the rest of Kant's technical terms. What Kant means is that such a person is already committed to the practice that these technical terms describe'. Krasnoff, 'How Kantian Is Constructivism?' p406. In the *Grundlegung* Kant writes, after deriving the CI, that 'The ordinary reason of mankind also agrees with this completely in its practical judgment and always has the aforesaid principle before its eyes'. Krasnoff argues that this reference to judgment shows that the CI not only summarises what ordinary moral reasoners believe, but further, how they already justify what they believe. He writes that '[f]or Kant ordinary moral reason already has all the theory it needs' Krasnoff, 'How Kantian Is Constructivism?' p406.

[129] Where exercise of discursive reason is identified merely with employing discursive laws of logic, internal coherence, consistency etc. it would seem somewhat more plausible to identify this as a merely formal reason which comes close to approximating an unconditioned ground than if a thicker understanding of 'Reason' is assumed.

Second, I consider Kant's more substantive, political reflections on the constitution of reason and find that here too he stipulates that the authority of the Public Use of Reason rests on freedom from (ie the capacity to suspend and radically scrutinise), existing prejudices. Building on this connection I find a means to rethink 'reason' in a way that incorporates Kant's fundamental commitment to the unconditioned ground of human dignity and moral order within a substantive account of practical reason/autonomy.

Summary and Conclusion

In this chapter I have argued in the light of Kant's view of human dignity and the authority of the moral law, as well as the structure of his formal account of autonomy, that the proposed account of autonomy will stand as grounded in the unconditioned as freedom from determinate, conditioned causes, particularly as the notion of the unconditioned constitutes a valuable explanatory device with which to (1) affirm individual responsibility for judgment and (2) construct a highly capacious account of trans-cultural justice. Following O'Neill I will defend the account of autonomy on the Kantian, constructivist grounds that it stands as the commonality which must be presupposed to account for the possibility of moral order between a plurality of (otherwise uncoordinated) peoples. The account will also employ a broadly constructivist justificatory approach which addresses plurality and historicity and yet seeks to affirm human agency and the possibility of trans-culturally authoritative values. However, I employ a justificatory approach which differs significantly from either O'Neill's or Rawls' versions of Kantian Constructivism. While O'Neill's constructivism provides a useful justificatory model, as it seeks to proceed from minimal abstractions concerning human commonality, the proposed account must find a means with which to rethink this commonality, following the structure of Kant's formal account of autonomy, as grounded in the unconditioned. Further, a means must be found with which to construct a substantive Kantian account of autonomy grounded in the unconditioned – a project which is highly problematic in the context of Kant's transcendental idealism.

In the following chapter I consider in greater detail O'Neill's constructivist vindication of reason and the parallels between the two-part structure of

Kant's account of autonomy identified above, and his accounts of enlarged mentality, the judgment of genius and of the Public Use of Reason.

Chapter 2: Kantian Autonomy – Justification and Structure

In this chapter I consider in greater detail the two major Kantian resources I employ to construct the proposed account of autonomy: first, the two-part structure identified above with Kant's formal account of full autonomy, and second, O'Neill's constructivist reading of Kant's vindication of reason. I begin by showing that the two-part Kantian structure consisting of an unconditioned and a conditioned component, where the former is viewed as fundamental to the authority of the latter, recurs within Kant's accounts of aesthetic judgment, of enlarged mentality and of the judgment of genius.[1] I then consider O'Neill's constructivist interpretation of Kant's vindication of reason. As noted above, here reason's authority is derived from its standing as the universal commonality which must be assumed if there is to be non-coerced moral order, given plurality.

I argue that a persuasive, contemporary, Kantian account of practical reason/autonomy will bring substantive content to the two-part Kantian structure, by asking how an account of autonomy must be constituted, if it is to stand as the commonality necessary (but not sufficient) for the realisation of trans-cultural justice. Here the conception of justice, to which appeal is made to vindicate the account of autonomy, must address core concerns and commitments within contemporary political thought seeking to reconcile the possibility of justice with human plurality, historicity and the critique of identity/difference.

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[1] As we saw above, in the case of moral autonomy, the first component is identified with unconditioned freedom, the second the moral law. Here the moral law is understood to constrain and bring determinacy to unconditioned freedom, but unconditioned freedom is viewed as fundamental to the authority of the moral law.

I conclude the chapter by identifying Kantian grounds for revising Kant's own more substantive views on the constitution of practical reason and the Public Use of Reason.

The Two-part Structure of Kantian Autonomy and Non-Cognitive Judgment

In the preceding chapter we saw that Kant's formal conception of autonomy proceeds from the regulative ideal of negative or unconditioned freedom. However, if this negative freedom is not to consist of mere lawlessness it must be constrained by a law, which must itself be grounded in and cohere with this freedom; there is no possibility of *Willkur*, freedom from alien causes, without capacity for *Wille*, (full) autonomy. As O'Neill puts it:

> To be free from alien causes is not to surrender to arbitrariness and unintelligibility but to seek to ground action in something that is not alien.[2]

I suggested above that the notion of an absence of constraint, of that which is other than determined by conditioned causes or the unconditioned, constitutes a valuable explanatory device for a contemporary account of autonomy: by grounding autonomy in that which is common to all by virtue of being particular to none, Kant identifies a point of commonality which privileges no particular socio-cultural group above any other. This is of value within a pluralist conception of autonomy which seeks to be as respectful of socio-cultural diversity as possible by resting on assumptions about human commonality which are as capacious as possible.

An account of autonomy which is grounded in the unconditioned is also best equipped to affirm the responsibility and autonomy of the judging subject.

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[2] O'Neill, 'Action, Anthropology and Autonomy', p76. 'If the repudiation of alien authorities is not to end in arbitrary and unintelligible action, it must be self-disciplined. On Kant's account autonomy, in thought or in action, is a matter of submitting only to those standards that are required if there is not to be submission to alien standards.'

Here I am following Hannah Arendt and Ronald Beiner who have also looked to Kant's account of aesthetic judgment within the third *Critique* to theorise political judgment in a way that fully affirms human agency.[3] In the following section I consider the different ways in which Kant's accounts of aesthetic judgment, of enlarged mentality and of the judgment of genius all employ the two-part structure identified above and begin to consider how this structure might be employed within the proposed account.

Aesthetic, Reflective Judgment

Kant identifies aesthetic judgment as a form of reflective rather than determinate judgment. Determinative (or subsumptive) judgment is judgment in which 'the universal [the rule, principle or law] is given' and the task of judgment is to 'subsume the particular under it'. In contrast, within reflective judgment 'only the particular is given and the universal has to be found for it'.[4] Beiner illustrates:

> In the act of subsuming a particular rose under the universal category 'beauty', I do not judge it to be such because I have available to me a rule of the type 'All flowers of such-and-such a species are beautiful'. Rather, the particular rose before me somehow 'generates' the predicate beauty.[5]

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[3] Beiner, *Political Judgment*, pp109-119; Beiner, 'Hannah Arendt on Judging', p112. For further discussion of Arendt's reflections on Kant's aesthetic judgment, see Chapter 7 below. See also Nedelsky, 'Communities of Judgment and Human Rights', pp3-10 for reflection on the value of Arendt's interpretation of Kantian enlarged mentality for a pluralist conception of political judgment.

[4] Immanuel Kant, *Critique of Judgment*, trans. Werner S. Pluhar Hackett Publishing Company, Indianapolis, 1987, pp18-19, (Introduction, Section IV); Arendt, *Lectures on Kant's Political Philosophy*, p83.

[5] Beiner, 'Hannah Arendt on Judging', p119. See also O'Neill, *Bounds of Justice*, p55. For critical reflection on Arendt's interpretation and appropriation of enlarged mentality see Benhabib, 'Judgment and the Moral Foundations of Politics in Hannah Arendt's Thought', pp121-147.

One of the major reasons Kant's *reflective* judgment is such a good source from which to construct the proposed account of autonomy, is that here judgment is viewed as inescapably *problematic*. Echoing O'Neill's critique of empiricist or realist ethical thought, Beiner argues that each of the dominant moral philosophies of today which seek rules for the guidance of moral life (ie utilitarianism, natural law and the Kantian categorical imperative) 'in some way deprives the judging subject of responsibility by providing rules' for the subsumption of particular cases. Within conceptions of judgment in which the universal obviates the responsibility of the judging subject to weigh given particulars and adjust them carefully to the 'demands of an elusive universal', it would no longer be meaningful to conceive of judgment as a task or a burden.[6] In contrast, Kant's formal account of aesthetic judgment recognises that only if the problematic nature of subsuming particulars under universals is acknowledged, can the responsibility and autonomy of the judging subject be affirmed. Recognising the 'undesirable prospect' of a determinate view of judgment, Kant emphatically stresses the relation of judgment to transcendental subjectivity to ensure that 'an objective set of criteria would not threaten to deprive the judging subject of personal responsibility for a judgment of taste'. Here it is the task of the subject to bridge the inevitable gap between 'what is available for judging and what is required in the way of judgment'.[7] The 'responsibility of the judging subject can only be lifted at the price of the dignity of the judging subject'.[8]

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[6] Beiner, *Political Judgment*, pp111-112.

[7] Ibid., p114.

[8] Ibid., pp111-112. 'When Kant speaks of the necessary "singularity" of judgment and the inescapable "subjective conditions of taste" he is really saying that the individual judging subject cannot be deprived of his right to personal judgment by some objectively determinable universal rule'. Expressed differently, the 'need for subsumption can not be allowed to infringe upon the individual subject's own personal autonomy of judgment' (ie which must be distinguished from the autonomy of the Kantian moral subject who must adhere to the determinate imperatives of his own reason). Beiner, *Political Judgment*, p112.

Kant's critique of Aesthetic Judgment is also a good resource from which to construct an account of autonomy/practical reason which can be vindicated as the commonality needed to realise trans-cultural justice, because Kant's aesthetic judgment, in contrast to his moral judgment or practical reason, is concerned with 'particulars and things close at hand', that is, phenomena within the world of appearances (ie as distinct from the Kantian noumenal realm of things-in-themselves); in contrast to Kant, I am seeking to construct an account of autonomy/practical reason which can be vindicated as the commonality needed to realise justice within the political realm or 'world'[9] Here I follow Arendt, who was one of the first to connect aesthetic and political judgment, observing that political events, 'great deeds and words', like great art, are manifest phenomenally; both are 'phenomena of the public world'.[10]

Sensus Communis and Enlarged Mentality

Arendt's, Beiner's and O'Neill's critical reflections on Kant's aesthetic judgment draw heavily on Kant's discussion of *sensus communis* within the *Critique of Aesthetic Judgment*.[11] Kant's account of *sensus communis* appears in the context of his discussion of the universal communicability of judgments of taste: for aesthetic judgments to stand as potentially objective rather than

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[9] As noted below, O'Neill rejects this emphasis on the worldly character of Kant's aesthetic judgment arguing, correctly, that Kant characterises the process of reflective judgment within his account of enlarged mentality as a process which takes place at a distance and a way from the object in question.

[10] Beiner, 'Hannah Arendt on Judging', pp110-111. 'Taste judges the world in its appearance and in its worldliness; its interest in the world is purely "disinterested" … [f]or judgments of taste, the world is the primary thing, not man, neither man's life nor his self'. Hannah Arendt, 'The Crisis in Culture', *Between Past and Future: Eight Exercises in Political Thought* Penguin, Middlesex, 1977, p222.

[11] Onora O'Neill, 'Reason and Politics in the Kantian Enterprise', *Constructions of Reason: Explorations in Kant's Practical Philosophy* Cambridge University Press, Cambridge, 1989, pp24-26; Arendt, *Lectures on Kant's Political Philosophy*, pp68-72; Kant, *Critique of Judgment*, pp159-162 Section 40 'On Taste as a Kind of *Sensus Communis*'.

as merely subjective opinions, they must be grounded in subjective conditions which are shared by everyone.[12]

Kant describes s*ensus communis* or 'common human understanding' as the capacity to 'rise above the senses to higher cognitive powers', the 'very least that we are entitled to expect from anyone who lays claim to the name of human being' ... 'merely man's sound ([but] not yet cultivated) understanding'.[13] He suggests that the 'common' in 'common sense' ought to be viewed as indicative of it being a 'shared' sense:

> A power to judge that in reflecting takes account (a priori), in our thought, of everyone else's way of presenting [something], in order *as it were* to compare our own judgment with human reason in general and thus escape the illusion that arises from the ease of mistaking subjective and private conditions for objective ones, an illusion that would have a prejudicial influence on the judgment.[14]

Here the reflective process requires that we abstract from the limitations that may happen to attach to our own judging, by 'leaving out as much as possible whatever is matter ie sensation' as it is presented to us, and considering merely the formal features of the object of reflection.[15]

Here we can see again that Kant's view of human dignity as freedom from the dictates of causally-determined interests, (desires and fears) is reflected in his view that critical distance from the sensually given must be achieved if

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[12] Kant, *Critique of Judgment*, pp157-159. The preceding Section is entitled 'On the Communicability of a Sensation'.

[13] Kant notes that we often refer to the power of judgment as a kind of sense: a 'sense of truth, of decency, of justice for example' Ibid., p159.

[14] Ibid., p160.

[15] Ibid. Kant acknowledges that this 'operation of reflection' may seem 'too artful' to be attributed to the ability we call common sense. However, he argues that this is the result of it being described in abstraction, and that '[i]ntrinsically nothing is more natural than abstracting from charm and emotion when we seek a judgment that is to serve as a universal rule'.

there is to be 'common human understanding'. Further, here, in the absence of a priori shared standards of taste, commonality must be grounded in that which transcends the particular. [16]

Kant identifies *sensus communis* with three maxims of common human understanding: to 'think for oneself' (the maxim of unprejudiced thought); to 'think from the standpoint of everyone else' (the maxim of enlarged mentality or 'broadened thought') and to 'think always consistently' (the maxim of a consistent way of thinking).[17]

The first is the maxim of never passive reason, that is, of not succumbing to prejudice, or even worse, superstition. This is the maxim of 'enlightenment', the 'liberation from self-incurred immaturity': the 'refusal to submit to alien forces, such as the will of others...'; 'that merely negative [element] which constitutes enlightenment proper', the capacity to be 'always self-legislative'.[18]

The second is the maxim of enlarged mentality, of 'broad – as distinct from narrow – mind'; the maxim 'to think from the standpoint of everyone else'. This requires effort to orient one's thinking in ways that do not preclude accessibility to others.[19]

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[16] O'Neill, 'Reason and Politics in the Kantian Enterprise', p25. This *negative* criterion, freedom *from* the sensually given, is echoed again in the account of the Public Use of Reason in which the maxims of common understanding are understood to be those that 'constrain understandings, indeed practices of communication, that can be shared in any possible community'. They 'articulate the self-discipline of thinking that will be required if there is to be communication among a plurality *whose members are not antecedently coordinated*'. (Italics added) .

[17] Kant, *Critique of Judgment*, pp160-161. See O'Neill, 'The Public Use of Reason', pp45-48.

[18] Kant, *Critique of Judgment*, p161n; O'Neill, 'Reason and Politics in the Kantian Enterprise', p26.

[19] Kant, *Critique of Judgment*, p161; O'Neill, 'Reason and Politics in the Kantian Enterprise', p26.

The third maxim is the maxim of consistent thought, which Kant notes is the 'hardest to attain' as it requires that our present set of judgments must always be open to revision once we have taken into account the standpoint of everyone else.[20]

Contemporary political and ethical reflection on Kant's aesthetic judgment has generally focussed on the second of these maxims, the maxim of 'enlarged thought' or 'enlarged mentality'. By teasing out particularly Arendt's discussion of enlarged mentality, the two-part structure of Kant's aesthetic judgment comes into further focus.

The Faculty of Imagination and Reflective Judgment

Arendt suggests that the exercise of enlarged mentality consists of two mental operations, the first the operation of the 'imagination', the second the operation of 'reflection'. She argues that this twofold operation endows the aesthetic judgments with the most important condition for all judgments: the condition of impartiality (which Kant identifies with a potentially universal experience of 'disinterested delight').[21]

Within the *Critique of Pure Reason*, Kant's account of the faculty of imagination is as a 'mediator between sense perception and concepts' … 'between sense and thought.'[22] However, Kant also utilises the concept of

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[20] Kant, *Critique of Judgment*, pp161-162; O'Neill, 'Reason and Politics in the Kantian Enterprise', p26.

[21] Arendt, *Lectures on Kant's Political Philosophy*, p68. 'The synthesis of the intuition (sensibility) and concepts (understanding) into knowledge "is the mere result of the faculty of the imagination, a blind but indispensable function of the soul, without which we should have no knowledge *whatsoever,* but of which we are scarcely ever conscious"'. Arendt, *Lectures on Kant's Political Philosophy*, pp80-81 quoting from *Critique of Pure Reason*, B103 trans N.K. Smith, New York, St Martin's Press, 1963. (Italics added)

[22] Murdoch, *Metaphysics as a Guide to Morals*, p308. She suggests here that Kant uses the concept of imagination to account for our original ability to grasp any object and in doing so it solves many problems for him. She goes so far as to suggests that '[o]ne might almost

imagination within his *Critique of Aesthetic Judgment* to account for genius, the creative acts of artists.

Distinguishing between the two kinds of imagination, Iris Murdoch writes that the empirical imagination is 'the unconscious activity necessary to experience the world'; it is 'a power of spontaneous synthesis operating at the transcendental barrier of consciousness'.[23] It 'spontaneously yet "mechanically" prepares a sensuous manifold for subjection to the synthetic a priori and empirical conceptions of the understanding'.

> [The empirical] [i]magination is a spontaneous intuitive capacity to put together what is presented to us so as to form a coherent spacio-temporal experience which is intellectually ordered and sensuously based.[24]

In contrast to this empirical imagination, which is 'not independently creative or aesthetically sensible', Murdoch characterises the aesthetic imagination as spontaneous and free and able to create a 'second nature'; 'the free inventive power of exceptional minds'.[25] At its highest, this superior power Kant calls genius 'a spontaneous imaginative power which enables the artist to create new unique original forms'.[26] The [aesthetic] imagination is an

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say that "imagination" is the *name* of the transcendental problem, or is used as a convenient blanket to cover it up. Kant *had* to invent the idea.' Murdoch, *Metaphysics as a Guide to Morals*, p310.

[23] Murdoch, *Metaphysics as a Guide to Morals*, pp316, 308, 309.

[24] Ibid., p308. Murdoch suggests that we can make better sense of this if we consider what happens when we try to interpret an imperfectly visible or totally unfamiliar object: 'If we can not make sense of it we may not be able to see it, as is the case of the natives and Captain Cook's ship.'

[25] Ibid., pp316, 309.

[26] Ibid., p312. 'When the imagination is used for cognition, then it is under the constraint of the understanding and is subject to the restriction of adequacy to the understanding's concept. But when the aim is aesthetic, then the imagination is free, so that, over and above the harmony with the concept, it may supply, in an unstudied way, a wealth of undeveloped material for the understanding which the latter disregarded in its concept'.

> …exercise of freedom. We *look* at clouds and stoves, we *construct* pictures in our minds. In our experience of beauty in art or nature imagination is free to discern conceptless forms, it plays or frolics with the understanding without being governed by empirical principles. ... It is out at the edge of things. The experience of beauty is often ineffable, the creation of art inexplicable.[27]

More formally, Arendt describes the exercise of the imagination within the process of aesthetic judgment, as the first of the two mental operations: the imagination distances the perceiver from his or her sensual experience of the object, and transforms it into a representation of this experience. The imagination is thus 'the faculty of having present what is absent, [it] transforms an object into something I do not have to be directly confronted with but that I have in some sense internalized, so that I now can be affected by it as though it were given to me by a non-objective sense'.[28] Only once this critical distance is established is disinterested judgment possible:

> Only what touches, affects, one in representation, when one can no longer be affected by immediate presence – when one is uninvolved, like the spectator who is uninvolved in the actual doing of the French Revolution – can be judged right or wrong, important or irrelevant, beautiful or ugly, or something in between.[29]
>
> By closing one's eyes one becomes an impartial, not a directly affected, spectator of visible things … by making what one's external sense perceived into an object for one's inner sense, one compresses and condenses the

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Kant, *Critique of Judgment*, p185. Kant refers to a talent called 'spirit' as that which enables one to express and communicate ones ideas to others: the 'ability to apprehend the imagination's rapidly passing play and to unite it with a concept that can be communicated without the constraint of rules (a concept that on that very account is original, while at the same time it reveals a new rule that could not have been inferred from any earlier principles or examples). (p186)

[27] Murdoch, *Metaphysics as a Guide to Morals*, pp310-311.

[28] Arendt, *Lectures on Kant's Political Philosophy*, pp66-67.

[29] Ibid., p67.

> manifold of the sensually given: one is in a position to "see" by the eyes of
> the mind, ie the whole that gives meaning to the particulars.[30]

Here it is evident that freedom from our conditioned or sensual responses to an object, is a precondition for impartial judgment of it; capacity to 'evaluate something at its proper worth'.[31] Paraphrasing Kant, Arendt writes

> "Enlarged thought" is the result of first "abstracting from the limitations which contingently attach to our judgment" of disregarding its "subjective private conditions … by which so many are limited".[32]

The operation of the imagination prepares the object for the second operation of aesthetic judgment, the operation of reflection, in which the judging subject assesses the beauty of the object, 'the actual activity of judging something'. Through this process determinate form is introduced to the judging process.[33]

Arendt argues that this second operation of aesthetic judgment must explain how judgment of taste can have potential communicability. She suggests that this communicability might be explained by comparing Kant's accounts of the faculty of imagination within his accounts of aesthetic and of cognitive judgment.

As already noted above, within Kant's accounts of cognitive judgment, the imagination provides 'an image (or schema) for the understanding, which in

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[30] Ibid., p68.

[31] Ibid., p67.

[32] Ibid., p43. Kant writes in the *Critique of Judgment,* we speak of a *sense* of judgment 'even though we know, or at least properly ought to know, that a sense cannot contain these concepts, let alone have the slightest capacity to pronounce universal rules, but that a conception of truth, propriety, beauty or justice could never enter our thoughts if we were not able to rise above the senses to higher cognitive powers'. Kant, *Critique of Judgment*, pp159-160.

[33] Arendt, *Lectures on Kant's Political Philosophy*, p68.

turn provides a concept (such as "table") adequate to it'.[34] Arendt suggests that whereas within cognitive judgments it is the schema which provides the image for the understanding, when engaged in reflective judgment, the exemplar or the example can serve the same role as the schema and provide the 'general rule':

> In the treatment of reflective judgments, where one does not subsume a particular under a concept, the example helps one in the same way in which the schema helped one to recognize the table as table. The examples lead and guide us, and the judgment thus acquires "exemplary validity".[35]

She argues that whereas within the *Critique of Pure Reason* the 'imagination is at the service of the intellect', within the *Critique of Judgment* the intellect 'is at the service of the imagination': Within reflective judgment the rule is derived from the particular; in the schema as example/exemplar, 'one actually "perceives" some "universal" in the particular'.[36] For example when we assert 'He has courage', we may have the exemplar Achilles in the depths of our minds (particularly if we are Greek); when we say 'He is good', we may have in mind the exemplar of Jesus; Achilles and Jesus provide the 'rule' with which to judge the particular.[37]

Arendt argues that particulars are made communicable because (a) in perceiving a particular we have in the back of our minds (or in the 'depths of our souls') a schema (or example) whose 'shape' is characteristic of many such particulars and (b) this schematic shape is in the back of the minds of

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[34] Ibid., p80.

[35] Ibid., p84 See *Critique of Judgment* Section 22.

[36] Ibid., pp84,83, quoting Kant, *Critique of Judgment* General Remark to #22, trans JH Bernard, New York, Hafner, 1951. Arendt also suggests here that Kant hints at this distinction between reflective and determinate judgment when he distinguishes in the *Critique of Pure Reason* between 'subsuming under a concept' and 'bringing to a concept'. See *Critique of Pure Reason*, B104 (trans. N.K. Smith).

[37] Arendt suggests that a 'judgment has exemplary validity to the extent that the example is rightly chosen' Ibid., p85.

many different people.[38] She suggests that Kant held the activity of judging to be inherently social, because our aesthetic judgments make reference to a common or shared world, to what appears in public to all judging subjects. In matters of 'taste' the 'act of judging always implies a commitment to *communicate* my judgment; that is, judgment is rendered with a view to persuading others of its validity'. Arendt refers to this effort at persuasion as the very *raison d'etre* of judging because, in the absence of any secure procedure for achieving correspondence to the object judgment, this validity must be sought through the process of 'truth-seeking communication'.[39] Aesthetic judgments arise from what is held in common among subjects, from what is – literally – *between* them. This 'in-between' Arendt refers to as the 'world' reflecting Kant's definition of pluralism in the *Anthropology*: 'the attitude of not being occupied with oneself as the whole world, but regarding and conducting oneself as a citizen of the whole world'.[40]

As Murdoch emphasises, Kant does not clearly articulate what the faculty of the imagination entails. She goes so far as to suggest that Kant uses the concept of imagination to account for our original ability to grasp any object, and in doing so the imagination solves many problems for him: one might 'almost say that "imagination" is the *name* of the transcendental problem, or is used as a convenient blanket to cover it up. Kant *had* to invent the idea'.[41] And as Arendt notes, Kant describes the imagination as 'an art concealed in the depths of the human soul, whose modes of activity nature is hardly likely ever to allow us to discover and to have open to our gaze'. [42]

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[38] Ibid., p83.

[39] Beiner, 'Hannah Arendt on Judging', pp119 -120.

[40] Ibid., p120 quoting Immanuel Kant, *Anthropology from a Pragmatic Point of View*, trans. Mary Gregor Nijnoff, The Hague, 1974, p12.

[41] Murdoch, *Metaphysics as a Guide to Morals*, p310.

[42] Arendt paraphrasing Kant *Critique of Pure Reason* (trans. N.K. Smith) B180 -81, Arendt, *Lectures on Kant's Political Philosophy*, pp81-84.

Nevertheless the two-part characterisation of Kant's aesthetic judgment suggested by Arendt is helpful, and coheres with the structure of his reflections on *sensus communis* and enlarged mentality which emphasise capacity to free oneself from one's existing prejudices and take other points of view into account.

The first component of aesthetic judgment, which is crucial to the authority of judgments, is the impartiality obtained by distance, abstraction, freedom from the sensually given and/or casually determined.

The second component, which explains how judgments can have potential communicability, is the reflective process which brings form to the object of judgment.[43]

Here we have then a structure of an account of judgment which is grounded in the freedom of the judging subject, characterised as a freedom from the sensually given or free from one's pre-existing, determinate judgments. By supplementing Kant's formal account of aesthetic enlarged with Arendt's suggestion that the function served by schema within Kant's account of empirical imagination, be replaced in the case of aesthetic imagination with examples or exemplars, we can begin to explain how aesthetic judgments can stand as authoritative in a way that reflects the two-part structure identified with Kantian autonomy above: that it is by virtue of a capacity for an unconditioned experience (freedom from the sensually given), coupled with a desire to communicate or share one's judgment through appeal to common examples/exemplars or standards (rather than by virtue of pre-existing shared schema), that potentially authoritative standards or judgments of taste, grounded in the disinterestedness of the judging subject, are possible.

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[43] I return to consider further Arendt's suggestion that the communicability of judgments be accounted for by appealing to the notion of shared examples in Chapter Seven.

This two-part structure, consisting of first the notion of negative freedom, freedom from determinate causes and second, account of the possibility of shared, authoritative standards which appeal to no pre-existing, a priori standards, recurs again within Kant's discussion of genius.

Genius and the Faculty of Taste

Kant writes 'genius is the talent (natural endowment) that gives rule to art' and that the 'foremost property of genius must be *originality*' as genius is 'a talent for producing something for which no determinate rule can be given'.[44] Here we have again, a structure that begins to resemble Kant's notion of autonomy: whereas in the case of moral autonomy, the moral law was grounded in unconditioned or negative freedom, here we have the quixotic notion of something that provides a 'rule', and yet, it is specified that the rule provided contains no determinate content.

Kant continues, however, and notes that the originality of genius does not mean that any work of 'non-sense' that is original, counts as a work of genius – an observation that corresponds to his comments that the merely negative, unconditioned freedom of the autonomous agent represents a 'lawlessness' which must itself be constrained. At this point Kant introduces the second defining feature of genius: in addition to being original, 'products of genius must also be models, ie, they must be *exemplary*'. While such works 'do not themselves arise through imitation' they must nevertheless 'serve others for this, ie, as a standard or rule by which to judge'.[45] The exemplary aspect of genius also indicates that genius itself is subject to constraints, albeit the constraints of its own 'rule'. Kant underlines this point by stating that

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[44] Kant, *Critique of Judgment*, pp174-175. Genius can be contrasted with a 'predisposition consisting of a skill for something that can be learned by following some rule or other'(p175). It is the subject's nature which brings about the imagination's free harmony with the understanding's lawfulness with such a 'proportion and attunement of these powers as cannot be brought about by any compliance with rules' (p186).

[45] Ibid., p175.

persons of genius do not themselves have it in their power to devise works of genius at their pleasure. They are constrained by that which 'rules' genius itself.[46] Kant specifies that that which rules genius is 'Nature'.[47]

By attributing the source of genius to nature, Kant is able to supply the rule that constrains genius, without negating the unconditioned quality of originality. This is because Nature's rule (as distinct from the natural laws of causality) can neither be couched in a formula nor serve as a precept; Nature's rule contains no determinate concept.[48]

So far Kant's insistence on the indeterminacy of the law which genius obeys would seem to correspond to Kant's emphasis on the unconditioned ground of moral autonomy. What then of that part of the structure of moral autonomy which explains how shared standards can stand as authoritative? Kant writes that

> Genius can only provide rich *material* for products of fine art. Processing this material and giving it form requires a talent that is academically

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[46] Kant notes here that the word genius has its origin in the Latin *genius* which means 'the guardian and guiding spirit that each person is given as his own at birth, and to whose inspiration those original ideas are due'. *Critique of Judgment*, p175. This Latin derivation is also reflected in the first definition within *The Shorter English Oxford*: Genius, 1. 'The tutelary god or attendant spirit allotted to every person at his birth, to preside over his destiny in life....'.

[47] Kant, *Critique of Judgment*, p177. 'the artist's skill cannot be communicated but must be conferred directly on each person by the hand of nature.' ... [the artist's] natural endowment must give the rule to (find) art'. 'Genius is the innate mental predisposition (ingenium) *through which* nature gives the rule to art … it must be nature in the subject (and through the attunement of his powers) that gives rule to (fine) art ... the product of genius'. (p174, 175)

[48] '… the concept of fine art does not permit a judgment about the beauty of its product to be derived from any rule whatsoever that has a concept as its determining basis'. *Critique of Judgment*, p175.

[48] Ibid., p175.

> trained, so that it may be used in a way that can stand the test of the power of judgment.[49]

At this point (in Section 48 'On the Relation of Genius to Taste') Kant introduces his account of aesthetic 'taste'. Kant explains that whereas nature produces beautiful things, the artistic genius is concerned with the beautiful presentation of things. The faculty of taste is employed by the genius to introduce form to the 'concept' being exhibited and universally communicated within the work of art. The form of the artistic object is not 'a matter of inspiration or of a free momentum of the mental powers' but rather is the product of the artist's 'many and often laborious attempts to satisfy his taste', having 'practised and corrected his taste by a variety of examples from art or nature'.[50]

> Taste, like the power of judgment in general, consists in disciplining (or training) genius. It severely clips its wings, and makes it civilized, or polished… [i]t introduces clarity and order into a wealth of thought, and hence makes its ideas durable, fit for approval that is both lasting and universal … [51]

I am suggesting here then, that the structure of Kant's formal account of autonomy, which is grounded in negative, unconditioned freedom, but also explains how form, determinacy, or constraint can be introduced to the radically indeterminate without undermining it, recurs within his accounts of aesthetic judgment and the creative judgment of genius. In the case of aesthetic judgment, authoritative judgments are first grounded in capacity to free oneself from one's sensual or conditioned response to an object, or less

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[49] Ibid., p178. (Italics in Edition) 'Even though mechanical and fine art are very different from each other, since the first is based merely on diligence and learning but the second on genius, yet there is no fine art that does not have as its essential condition something mechanical, which can be encompassed by rules and complied with, and hence has an element of *academic correctness*'.

[50] Ibid., p180.

[51] Ibid., p188.

technically, to gain critical distance from one's existing point of view, and second, to critically evaluate one's response to an object from this vantage point, which is also understood to correspond to that of a citizen of the world. Within the account of genius, the creative genius obeys no determinate laws but rather an unconditioned law of nature. Nevertheless the inspiration and talent of genius must also be subject to shared, authoritative aesthetic standards of taste.

I return to this two-part structure and suggest how it can be applied to O'Neill's constructivist account of the Public Use of Reason, and utilised to re-think Kant's more substantive views on the constitution of practical reason at the end of this chapter. First though, I consider O'Neill's constructivist interpretation of Kant's vindication of reason in which I find Kantian grounds for the justification of the proposed account of autonomy.

O'Neill's Constructivist Interpretation of Kant's Critical Project

As noted already, within her constructivist interpretation of Kant's critical enterprise O'Neill argues that reason's authority rests on its role as a potentially shared, authoritative standard that is required if there is to be cooperation based on communication rather than coercion, between a plurality of people(s), of whom no other a priori shared authority can be assumed.[52]

O'Neill's reading locates Kant squarely within the broad category of constructivist thought identified above: he is characterised as displaying a strong commitment to human agency, and as employing an anti-foundationalist, anti-realist metaphysical framework which nevertheless

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[52] O'Neill, *Constructions of Reason: Explorations in Kant's Practical Philosophy*, p47. See in this book Chapters 1, 2 and 3, 'Reason and Politics in the Kantian Enterprise', 'The Public Use of Reason' , 'Reason and Autonomy in Grundlegung 3' and also 'Constructivism in Ethics'; O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning* .

seeks to establish the possibility of objective ethical standards, grounded in minimal, uncontroversial abstractions.[53]

O'Neill's reading proceeds from two major claims, both of which have textual support. First, that the 'Kantian enterprise' is governed by the idea that we must take seriously the idea of a critique of reason: Kant proceeds from the assumption that the 'very standards of reason are neither given nor self-evident', and that 'philosophy must *begin* with the task of showing why any standards or procedures for orienting our thinking (and acting) should have authority for us and count as standards for reason'.[54] A critique does not seek to attain an unconditional, transcendent vantage point, but rather 'to take a critical view of the starting point, or condition, of one's own previous thinking'.[55] O'Neill's second claim is that Kant gives priority to practical over theoretical reason, and following on from this, the 'supreme' guiding principle for the use of practical reason, the Categorical Imperative, is also fundamental to the use of theoretical reason.[56]

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[53] For O'Neill's view of what distinguishes Kant's constructivism from Rawls's "Kantian constructivism" see O'Neill, 'Constructivism in Rawls and Kant', pp353-361.

[54] O'Neill, *Constructions of Reason: Explorations in Kant's Practical Philosophy*, pix (Italics added).

[55] O'Neill, 'Reason and Autonomy in *Grundlegung* 3', p56. Arendt also comments on Kant's choice of the title '*Critique*' observing that 'Using his own mind, Kant discovered the "scandal of reason", that is, that it is not just tradition and authority that lead us astray but the faculty of reason itself. Hence "critique" means an attempt to discover reason's "sources and limits"'. Arendt, *Lectures on Kant's Political Philosophy*, p32. Arendt also reflects on the anti-authoritarian nature of 'critical' as opposed to 'dogmatic thought': 'critical thought is in principle anti-authoritarian. And, as far as the authorities are concerned, the worst thing is that you cannot catch it, cannot seize it. The accusation in the trial of Socrates – that he introduced new gods to the polis – was a trumped-up charge; Socrates taught nothing, least of all new gods.' Arendt, *Lectures on Kant's Political Philosophy*, p38.

[56] 'O'Neill, 'Reason and Politics in the Kantian Enterprise', pp3-4. O'Neill describes Kant's claim that 'practical uses of reason are more fundamental than theoretical uses' as Kant's 'most basic move in seeking to explain the grounds and limits of human reason' O'Neill, 'The Public Use of Reason', p29. Quoting from Kant's *Groundwork* she suggests that 'a complete critique of practical reason "should be able at the same time to show the unity of

Descartes' Rationalism and Kant's Anti-Foundationalism

O'Neill defends her constructivist reading by first highlighting contrasts between Kant's philosophical approach and Descartes' rationalism. These contrasts are particularly evident in Kant's choice of motto and use of political and judicial metaphors within the first *Critique*, as well as the structure of this *Critique,* which does not proceed from but rather postpones the question of the 'method' of reason to its concluding sections.[57] O'Neill argues that Kant deliberatively subverts Descartes' own metaphors of construction and employs metaphors and images taken from the judicial and political realms, to draw out the contrast between Cartesian rationalism and Kant's own, anti-foundationalist, anti-rationalist view of reason's authority. In contrast to Kant, for whom the first task of the philosopher is to establish the constitution and authority of reason, Descartes' rationalism proceeds from an unvindicated (theoretical) reason; the concept of an innate reason 'whole and complete in each of us' vindicates the sequence of topics within Descartes' *Discourse on the Method* and *Meditations*.[58] The human being can

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practical and theoretical reason in a common principle, since in the end there can only be one and the same reason"' (G, IV, 391). O'Neill, 'Reason and Autonomy in *Grundlegung* 3', p51.

[57] O'Neill, 'Reason and Politics in the Kantian Enterprise', p4. O'Neill argues that the first *Critique* 'is not only deeply anti-rationalist, but profoundly political' – a claim that she suggests is likely to be 'met with scorn' but which she notes has also been put forward by Arendt, as well as Hans Saner. O'Neill argues that 'the close connections between the short political essays and the central critical writings suggest not only that the essays are part of Kant's systematic philosophy, and not marginal or occasional pieces, but also perhaps that the entire critical enterprise has a certain *political* character'. O'Neill, 'The Public Use of Reason', p29. O'Neill develops her argument that the Categorical Imperative is central to Kant's vindication of reason and that Kant's critique of reason is both anti-rationalist and anti-foundationalist in 'Reason and Politics in the Kantian Enterprise'. She first provides an account of the macrostructure of the first *Critique* and of the claims of its two prefaces, then develops a political, constructivist interpretation of the account of reason and method found in the second half of the *Critique,* the 'Transcendental Doctrine of Method', parts of the *Critique of Judgment*, and some of Kant's 'overtly political essays'.

[58] O'Neill, 'Reason and Politics in the Kantian Enterprise', pp4-5 *Discourse on the Method* p112.

'look into *himself* to discover what reason is'.[59] Here it is 'secure biographical continuity' which permits the 'introspective meditation, which is the context for systematic doubt and for discovering the method of reason; method is the basis for metaphysics and metaphysics for science'.[60]

O'Neill argues that Descartes must pay a high price, however, for this 'coherent structure': he must 'exempt his own life and continuity from radical doubt'. And to do so he must keep the practical and theoretical uses of reason distinct, for otherwise the 'unvindicated categories of the autobiographical context in which reason is disclosed may be projected onto and perhaps colour the supposed methods of reason'; close examination of the method of reason threatens its capacity to provide 'a presuppositionless foundation of all knowledge', and to expose an unvindicated reason.[61]

This rationalism, which proceeds from an unvindicated reason which must be exempt from critical examination, contrasts strongly with Kant's anti-rationalist, non-foundationalist approach, central to which is the critical examination of the constitution and authority of reason.[62]

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[59] Ibid. This is a project of introspection which rewarded Descartes with the discovery of the *method* of reason: the movement from methodic doubt, to the 'analysis of problems into their most elementary constituents', concluding with the 'systematic reconstruction of human knowledge'.

[60] Ibid., p5.

[61] Ibid. . She argues that for Descartes' work this grounding of reason is closely linked to its 'political impotence': 'Only the repudiation of politics, and more generally of criticism of action, allows him a meditative perspective from which to discern and deploy the methods of reason without self-stultification'. Here the (unvindicated) separation of thought and action is indispensable to Descartes' project.

[62] O'Neill argues that within Kant's preface to the Second Edition of the *Critique of Pure Reason* the 'first paragraph makes clear that the problem of reason is a shared one'. She states, however, that within the *First* Edition Kant 'does not, I think, fully repudiate a Cartesian starting point'. Quoting Kant from the First Edition: 'I have to deal with nothing save reason itself and its pure thinking; and to obtain complete knowledge of these, there is no need to go far afield, since I come upon them in my own self' (CPR, Axiv). O'Neill

The contrast between the starting points of Descartes' rationalism and Kant's anti-foundationalism is no more evident than in Kant's choice of motto, added to the Second Preface of the first *Critique* and taken from the last paragraph of Bacon's preface to his *Instauratio Magna*. O'Neill translates this passage, italicising Kant's selections as follows:

> However, I make the following requests. *Of myself I shall say nothing: but on the matter at issue I ask that men should think it not an opinion but a task; and that they should be confident that I seek to support not some sect or doctrine but the basis of human greatness and well-being. Next [I ask] that they should deal fairly with their affairs* and set aside their staunchly held views and presuppositions and *discuss together*; and being freed and secured from the errors and obstacles of these ways [of thought] by the supports and assistance that I offer, *they should involve themselves in the tasks that remain. Moreover [I ask] that they should be of good hope, and that they should not imagine that my Instauration is something unlimited and beyond mortal powers when in truth it is the end and rightful stopping point of infinite error...* I reject all that premature, anticipating human reasoning that abstracts from things rashly and faster than it should (so far as the inquisition of nature is concerned) as something that is unreliable, distorted and ill built. It cannot be demanded that I should be placed under the judgment of that which is itself under trial.[63]

O'Neill argues that with this Baconian 'hors d'oeuvre' Kant finds a way to encapsulate 'what is basic to his own work. Here Kant indicates that he views his philosophical task as corresponding more closely to that of Bacon than Descartes: a task which does not proceed from solitary introspection, but is rather one in which others are invited to join; it is not a superhuman task but rather one that promises practical rather than theoretical benefits; and it is a task that should not be judged by unvindicated standards. [64]

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comments that this perspective 'has vanished' in the preface to the Second Edition. Ibid., p7.

[63] Ibid., pp6-7 from Fancis Bacon, *Instauratio Magna*, pp132-3.

[64] Ibid. .

Kant's political, practical view of the nature and source of reason's authority is also evident within Kant's opening to the First Preface of the first *Critique*. Here he tells the story of the constitution of the authority of 'Metaphysics', opening with the 'scandal' of the Queen of all the Sciences, Metaphysics, who is 'not all that she is supposed to be'.[65] We are told that the 'Queen' 'mourns forlorn and forsaken'. Kant then provides a potted history of the evolution of Metaphysics and of the constitution of reason's authority:

First Queen Metaphysic's government is characterised as an 'absolute despotism', as 'under the administration of the *dogmatist*'.[66] Gradually, as her empire broke up, the rule of metaphysics shifted from this ancient barbarism to 'the reign of anarchy'. Here 'the *skeptics*, like nomadic tribes who hate a permanent habituation and settled mode of living, attacked from time to time those who had organized themselves into civil communities'. Next, John Locke put forward a kind of 'physiology' of the human understanding. This 'affirmed that this so-called queen could not refer her descent to any higher source than that of common experience'. Locke's 'genealogy',however, 'was incorrect' and 'brought suspicion on her claims' so that Metaphysics 'necessarily fell back into the antiquated and rotten constitution of dogmatism'.

Kant goes on to describe his own time as characterised by 'weariness and complete *indifferentism* – the mother of chaos and night in the scientific world'. This indifferentism,however,'is plainly not the effect of the levity, but of the matured *judgment* of the age, which refuses to be any longer entertained with illusory knowledge'.[67] Reason is now called again

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[65] See Ibid., p8. Kant writes: Metaphysics 'deals with mere concepts' ... 'we find it compelled to retrace its steps in innumerable instances' ... it 'allures us to the pursuit of vain phantoms, only to betray us in the end'. Kant, *Critique of Pure Reason*, p14.

[66] Kant, *Critique of Pure Reason*, p3.

[67] Ibid., pp3-5.

> to undertake the most laborious of all tasks – that of self-examination, and to establish a tribunal, which may secure it in its well-grounded claims, while it pronounces against all baseless assumptions and pretensions, according to its own eternal and unchangeable laws. This tribunal is nothing less than the *Critique of Pure Reason* – a critical inquiry into the faculty of reason…[68]

The Constitution of Reason: Kant's Use of Metaphors of Tribunal and Debate

Kant's anti-foundationalist, practical, political view of the constitution of reason is further reinforced by his use of political and judicial metaphors, particularly images of 'tribunals' and 'debate' within both of the Prefaces to the first *Critique*, as well as its concluding section 'The Doctrine of Method':[69]

First the image of the 'tribunal' reinforces Kant's view that 'reason's authority must (since it receives no antecedent or transcendent vindication) be seen as a *practical* and *collective task*, like that of constituting a political authority'.

> The critique … arriving at all its decisions in the light of fundamental principles of its own institution, the authority of which no one can question, secures to us the peace of a legal order, in which our disputes have to be conducted solely by the recognized methods of *legal action* …[and] are …

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[68] Ibid., pp4-5.

[69] Within his Second Preface to the first *Critique* Kant tells us that the task of a critique of reason requires a plan, but a plan that cannot be borrowed from anywhere else. Here he makes his "Copernican" proposal, a 'plan proposed to reform metaphysics', referred to as a *trial*: 'We must therefore make a trial [*Versuch*] whether we may not have more success in the tasks of metaphysics, if we suppose that objects must conform to our knowledge'. O'Neill, 'Reason and Politics in the Kantian Enterprise', p10. O'Neill paraphrasing the Second Preface, Bxvi. Kant writes: '.. reason only perceives that which it produces after its own design'; '… it must not be content to following, as it were, in the leading-strings of nature, but must ….compel nature to reply to its questions…. Reason must approach nature with the view, indeed, of receiving information from it, not however, in the character of a pupil, who listens to all that his master chooses to tell him, but in that of a judge, who compels the witness to reply to those questions which he himself thinks fit to propose'. Kant, *Critique of Pure Reason*, p14.

> ended by a *judicial sentence* which, as it strikes at the very root of conflicts, effectively secures an eternal peace.[70]

O'Neill suggests that the symbol of a tribunal is employed here to indicate that the vindication of reason is a task for those who 'find no antecedent coordination'.[71] The tribunal image is also helpful as those engaged in a tribunal are not provided with any algorithm to follow. Rather '[t]heir's is a genuinely practical task of judging'.[72]

The image of 'debate' further extends the image of the tribunal. Kant likens reason's self-discipline to the 'free, critical and universal debate among fellow citizens who can not bring power to bear to destroy what others assert or to support their own assertions'. Here Kant subverts Descartes' images of construction and employs the image of debate as a metaphor for the process through which a plurality of otherwise uncoordinated people(s) must act, if they are to collaborate and construct any sort of building – or share a world.[73]

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[70] O'Neill, 'Reason and Politics in the Kantian Enterprise', p18. quoting *Critique of Pure Reason* A751/B779-80.

[71] O'Neill argues that while the image of the tribunal poses the difficulty that the authority of political tribunals is itself is grounded in power, and ultimately force, the key point to Kant's use of the symbol of the tribunal is that in his view, the vindication or critique of reason is the task of those who 'find no antecedent coordination'. Ibid. .

[72] Ibid. …there are moves that [tribunals] may not and had better not make as they move toward a verdict, but their charters and procedures do not fully determine every move'. O'Neill argues that the claim that reason is non algorithmic sheds some light on Kant's strategy of postponing the discussion of the method of reason until after the inventory of materials; that is, after the cognitive capacities depicted in the 'Doctrine of Elements' have been introduced: human beings receive manifold intuitions, which can be synthesised using concepts in accord with the categories of the understanding, but these categories can only be deployed in complete acts of judgment if they 'adopt and follow certain Ideas of reason or maxims of judgment to organise this judging'. 'In the end a practical principle must guide all complete acts of judgment.' (*Critique of Judgment*, V, p182); the complex capacities we call sensibility and understanding are not usable without "Ideas of Reason"', that is, 'the adoption of maxims to regulate the use of these capacities in thinking and acting'. (p19)

[73] Ibid., pp20-21.

The image of debates is particularly apt here as first, debate links a plurality of speakers (or citizens) freely, without coercion.[74] Second, the open-ended nature of debate points to the recursive nature of reason's authority: the authority of principles of reason is only that they 'survive open-ended questioning, including questioning in terms of the of the standards they themselves promulgate'; '[a]t any stage previous assumptions can be queried, and at no stage are definitive answers established'; the possibility of debate, like the possibility of a critique of reason, is dependent on the 'negative' condition that principles that would destroy its possibility must not be employed. In this way reason's authority can be viewed as established recursively, rather than as 'resting on secure foundations'.[75]

Kant further underlines that reason's authority rests on nothing more secure than free public debate in the following passage:

> Our age is the age of criticism, to which everything must be subjected. The sacredness of religion, and the authority of legislation, are by many regarded as grounds of exemption from the examination by the tribunal. But, if they are exempted, they become the subjects of just suspicion, and cannot lay claim to sincere respect, which reason accords only to that which has stood the test of a *free and public examination*'.[76]

The Anti-foundationalist Structure of the First Critique

O'Neill's anti-rationalist, anti-foundationalist interpretation of the constitution of reason's authority in Kant is further reinforced by her interpretation of the structure of the first *Critique*. O'Neill observes that

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[74] Ibid., p17. O'Neill notes that Kant suggests that reason cannot be a mode of war or polemic – the latter can only be used in self defence, to indicate failures in others' reasoning by invoking whatever limited conception of reason the 'private' reasoning criticised deploys. O'Neill, 'Reason and Politics in the Kantian Enterprise', p17. See Kant *Critique of Pure Reason* A740-1/B767-8.

[75] O'Neill, 'Reason and Politics in the Kantian Enterprise', p21.

[76] Kant, *Critique of Pure Reason*, pp4-5. (Note 1)

within both of the prefaces to this *Critique* Kant provides only very general hints as to how he proposes to approach the task of vindicating reason, he emphasises the difficulty of the task, and in contrast to a rationalist model which proceeds from an account of method, he delays the task of grounding reason until the second half.[77] In the 'Transcendental Doctrine of Method', (which begins on A707/B735) when Kant does focus on vindicating reason, he begins by summarising what he has done in the first half of the *Critique*, the "Transcendental Doctrine of Elements", and reminds us why the task of explicating his transcendental philosophy would be radically incomplete without the postponed vindication of reason. Here Kant again subverts images of construction employed by Descartes:

> If we look upon the sum of all knowledge of pure speculative reason as a building for which we have at least the idea within ourselves, it can be said that in the "Transcendental Doctrine of Elements" we have made an estimate of the materials, and have determined for what sort, height and strength of building they will suffice. Indeed, it turned out that although we had in mind a tower that would reach the heavens, yet the stock of materials was only enough for a dwelling house – just roomy enough for our tasks on the plain of experience and just high enough for us to look across the plain. The bold undertaking had come to nothing for lack of materials, quite apart from the babel of tongues that unavoidably set workers against one another about the plan and scattered them across the earth, each to build separately his own design. Our problem is not just to do with materials, but even more to do with the plan. Since we have been warned not to risk everything on a favourite but senseless project, which

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[77] O'Neill, 'Reason and Politics in the Kantian Enterprise', p10. She points out that Kant neither assumes nor asserts that a critique of reason must adopt a modification of rationalist methods, and that within his prefaces he puts forward 'as a hypothesis only' his proposal for the critique of reason. Further, he tells us that critique does not 'oppose the dogmatic procedure of reason, only dogmatism, "which is the dogmatic procedure of reason, without previous criticism of its own powers"' (CPR, Bxxxv). Further, she notes that 'describing a critique of reason as a reflexive and (quasi) juridical and political task shows very little about whether or how the task is to be done. It does, however, offer a clue to the absence of an account of method in the prefaces. If the task of critique of reason is in some way analogous to a tribunal's reflexive review of its own procedures, the vindication of reason cannot come first. O'Neill, 'Reason and Politics in the Kantian Enterprise', p9.

> could perhaps exceed our whole means, yet cannot well refrain from building a secure home, we have to plan our building with the supplies we have been given and also to suit our needs.[78]

O'Neill suggests that this passage tells us that the 'Transcendental Doctrine of Elements' can be looked upon as an '*estimate* or *inventory* of our building materials, which has instructed us about some constraints on what we can build'. While Kant acknowledges that the result is in some ways disappointing, when compared to the rationalist ambition to build 'a tower that would reach the heavens', it was Kant's view that 'rationalism failed because it took no account either of the paucity of materials or of the disagreements about the plan among the fellow workers'. Descartes 'relied upon the fiction of a unitary and authoritative architect' and '[l]ike the Tower of Babel, the edifice of rationalism was doomed to collapse'.[79]

While he recognises rationalism's failure, Kant nevertheless acknowledges that we 'cannot turn our backs on the task of construction'. Quoting Kant from a variety of sources O'Neill writes:

> "we cannot refrain from building a secure home"… even if we do not need a lofty tower, we need a shelter. Even on "the plain of experience" we have tasks ... we may not need a lofty tower that reaches the heavens, but we do need at least a modest cottage....[80]

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[78] O'Neill, 'Reason and Politics in the Kantian Enterprise', p11 *Critique of Pure Reason* A707/B735, trans. Onora O'Neill; cfA319/B376.

[79] Ibid., p12.

[80] Ibid. She continues: 'Instinct provides an inadequate basis for human life (G IV, 397-5) and we must guide our actions by adopting certain practical principles as our maxims. To approach this task responsibly we must begin by recognising that "Our problem is not just to do with materials, but even more to do with the plan". The plan must be one that can be followed by a plurality of "fellow workers" whose coordination is guided neither by instinct nor by pre-established harmony. The materials assembled in the 'Transcendental Doctrine of Elements' are constraints on the building that can be built; but they do not determine what the plan should be. The "Transcendental Doctrine of Method" aims to explain what sort of plan for using these materials can have authority.'

We have seen then that Kant's view of the constitution of reason can be persuasively read as a practical, political task which can be likened to the task of constituting order between a plurality of people(s) who must share a world, but of whom no antecedent order can be presupposed. Having characterised Kant's view of reason's authority as strongly anti-rationalist and anti-foundationalist, O'Neill must now explain how Kant introduces determinate content to his account of reason.

The Self-Discipline of Reason: Reason's 'Negative' Discipline

O'Neill presents reason's authority as proceeding from merely 'negative' constraints. She argues however that these do nevertheless issue in a determinate account of reason's authority when read in conjunction with Kant's use of images of debates, tribunals, and community, as well as his political appropriation of Descartes' metaphors of construction.

Her account of the constraints on the constitution of reason's authority proceeds from Kant's repeated assertion that thinking (or reasoning) that submits to any external authority is at best a deficient, 'private' use of reason. Following on from this, given that reason's authority can neither be intuited, 'found complete in all of us', nor derived from mathematics, algorithmic procedures or transcendent sources, reason's authority must be derived from some source internal to reason itself. [81]

O'Neill suggests that a clue as to how determinate content might be introduced to Kant's anti-foundationalist vindication of reason can be found in Kant's focus on reason's need for 'discipline' in the first chapters of the 'Transcendental Doctrine of Method'.[82] Here discipline refers to a 'form of

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[81] See Ibid., pp18-19, on the link between Kant's use of the image of a tribunal and the non-algorithmic nature of reason's authority.

[82] Ibid., p15. O'Neill notes that the term discipline appears in the titles of all of the sections of Chapter 1, 'The Discipline of Pure Reason'.

negative instruction': 'the compulsion, by which the constant tendency to disobey certain rules is restrained and finally extirpated'.[83]

The first and most fundamental of these 'negative instructions' is that reason cannot be understood to be vindicated by analogy with force or power.[84] In 'The Discipline of Pure Reason in Its Polemical Employment' Kant argues that reason's authority can only be damaged if appeal is made to power or force to defend it.[85] In contrast to the political discipline imposed by dictators or conquerors who coerce obedience, the discipline of reason can not rely on any imposed or pre-existing harmony; reason's authority would be undermined if it appealed to any authority external to reason itself.

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[83] Ibid., p13, quoting *Critique of Pure Reason* A709/B737; 'where neither empirical nor pure intuition keeps reason to a visible track ... it stands so greatly in need of a discipline, to restrain its tendency towards extension beyond the narrow limits of possible experience and to guard it against extravagance and error, that the whole philosophy of pure reason has no other than this strictly negative utility. (*Critique of Pure Reason* A711/B740) O'Neill suggests that Kant is confronted with the idea that if reason can not be disciplined by any source *external* to reason, then reason must be *self*-disciplined, an idea he himself acknowledges to be problematic. 'That reason, whose proper duty it is to prescribe a discipline for all other endeavours, should itself stand in need of such discipline may indeed seem strange'. She argues that Kant nevertheless pursues the task of accounting for the self-discipline, and in a way that can deflect charges of circularity.

[84] Ibid., p15.

[85] 'Reason does not hold its possessions upon sufferance…' Kant, *Critique of Pure Reason*, p484, A739/B767. 'The critique of pure reason may be regarded as the highest tribunal for all speculative disputes'…. 'without the control of criticism reason is, as it were, in a state of nature, and can only establish its claims and assertions by *war.'* 'The endless disputes of a dogmatizing reason compel us to look for some mode of arriving at a settled decision by a critical evaluation of reason itself'. Just as Hobbes maintains that we must leave the state of nature and limit our freedom, but only so that it may co-exist with the freedom of others. This freedom will permit us to openly state 'the difficulties and doubts which we are ourselves unable to solve, without being decried on that account as turbulent and dangerous citizens'. (p490-491) 'This privilege forms part of the native rights of human reason, which recognizes no other judge than the universal reason of humanity'. (p490-491)

Kant's alternatives to on the one hand, appeal to an alien authority, (ie transcendent or coerced) or on the other, to an absence of authority (Kant uses images of 'nomadic' restlessness here) is that reason's authority must be constituted by *a plurality* of non-coordinated (potential) actors or thinkers. O'Neill argues that Kant uses imagery of 'citizens' and 'fellow workers' to draw out a contrast between reason's authority and the authority of an external dictator and that he uses political metaphors to explicate the authority of reason because he sees the problems of cognitive and political order as arising in the same context: in both cases 'we have a plurality of agents or voices (perhaps potential agents or voices) and no pre-established authority' and hence, if there is to be any authority, it has to be constructed.[86]

Further, if reason's authority must not be derived from any source external to reason, nor from power or force, reason must always be open to free examination. For '[a]s soon as we seek to buttress the authority of reason by appeal to other "alien" authority, we undermine the only authority it can have'.[87] As Kant writes in the first *Critique*

> Reason must subject itself, in all its undertakings, to criticism, and cannot limit the freedom of such criticism by prohibitions, without harming itself and incurring a damaging suspicion. There is nothing, however useful, however sacred it may be, that can claim exemption from the searching

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[86] O'Neill, 'Reason and Politics in the Kantian Enterprise', p15. In both cases the problem is to discover whether there are any constraints on the mode of order (cognitive or political) that can be constituted. Such constraints (if they can be discovered) constitute respectively the principles of reason and justice. Reason and justice are two aspects of the solution to the problems that arise when an uncoordinated plurality of agents is to share a possible world. Hence political imagery can illuminate the nature of cognitive order and disorientation, just as the vocabulary of reason can be used to characterise social and political order and disorientation. 'Kant frequently characterizes skepticism as a failure of discursive order, hence as anarchy; just as he characterizes dogmatism (rationalism) as a form of despotism, a triumph of unjust discursive order.' (p16) Reason's authority must be like the 'discipline of those who interact without relying either on imposed or on pre-established harmony'.

[87] Ibid., p16.

> examination of this supreme tribunal, which has no respect for persons. The very existence of reason depends upon this freedom; for the voice of reason is not that of a dictatorial and despotic power, it is rather like the voice of the citizens of a free state, every member of which must have the privilege of giving free expression to his doubts, and possess even the right of *veto*.[88]

The Public Use of Reason

Additional textual support for O'Neill's interpretation of Kant's view of the vindication of reason as a practical task for a plurality who must share a world without resorting to force or coercive measures, a task which can be likened to free and open-ended political debate, is found in Kant's more political writings, particularly his discussions of the 'Public Use of Reason'. This is a form of reasoning Kant identifies with 'freedom from self-incurred immaturity' – that is, autonomy. [89] I delineate and defend the proposed account of autonomy principally by appealing to the 'constructivist' grounds to which Kant appeals to vindicate reason's authority, particularly concerning the Public Use of Reason, and by transposing the formal two-part

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[88] Ibid., p15, quoting Kant, *Critique of Pure Reason*, p483. Further Kant writes: 'It would be absurd to look to reason for enlightenment, and yet to prescribe before hand which side she must necessarily favour. Besides, reason is already of itself so confined and held within limits by reason, that we have no need to call out the guard, with a view to bringing the civil power to bear upon that party whose alarming superiority may seem to us to be dangerous. In this dialectic no victory is gained that need give us cause for anxiety'. O'Neill, 'Reason and Politics in the Kantian Enterprise', pp16-17, O'Neill quoting Kant *Critique of Pure Reason*, A747/B775.

[89] Immanuel Kant, 'An Answer to the Question: 'What Is Enlightenment?'', trans. H.B. Nisbet, *Kant's Political Writings*, ed. Hans Reiss Cambridge University Press, Cambridge, 1979, p54. It is 'self-incurred' immaturity if its cause is not lack of understanding, but lack of resolution or courage to use it without guidance of another. Kant writes that all that is needed for enlightenment of this kind is 'the most "innocuous" form of freedom – freedom to make *public use* of one's reason in all matters' – that is, 'that use which anyone may make of it *as a man of learning* addressing the entire *reading public'* '...the private use of reason is that which a person may make of it in a particular *civil* post or office with which he is entrusted'. Kant, 'An Answer to the Question: 'What Is Enlightenment?'', p55. Arendt argues that Kant defines political freedom 'quite unequivocally' and consistently as the public use of reason. Arendt, *Lectures on Kant's Political Philosophy*, p39.

structure so far identified with forms of Kantian judgment grounded in freedom onto this more political account of the constitution of reason.

Kant defines his notion of the Public Use of Reason in terms of the audience whom an act of communication may reach; here it is evident that reason's authority is grounded in the practical role it plays in making possible *potential* (ie as distinct from *actual*) acts of communication between an otherwise uncoordinated plurality of people(s).

O'Neill argues that an important distinction within Kant's notion of potential acts of communication is made between acts of expression and potential acts of communication.[90] This distinction turns on the question of (at least potential) interpretability: 'what we *communicate* – whether by word, gestures, rituals or more complex patterns of activity – must be interpretable by some audience'.[91] In contrast, expression is something that can, in principle, be purely private, indeed solitary. It does not require an audience who potentially understands what we do or say.

That the Public Use of Reason is better characterised in terms of potentially interpretable acts of communication, rather than merely expressive acts, is underlined by Kant's repeated statement that 'the Public Use of Reason must always be free'; that is, his insistent support of toleration of the Public Use of Reason. For if Kant's insistence on toleration of the Public Use of Reason is viewed as a response to merely the expressive use of reason (and unreason), then this will be read as a weak or even trivial demand. Toleration of others' expression of opinion (whether religious ceremonies, choice of life-style,

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[90] O'Neill argues that this distinction needs to be clear if we are to understand Kant's repeated insistence that 'the Public Pse of Reason must always be free', and why Kant emphasises the need for toleration in conjunction with the grounding of reason. See O'Neill, 'The Public Use of Reason', pp28-29, for a list of works in which Kant makes this connection.

[91] Ibid., p31.

letters to the editor) seems to merely require that people refrain from interference.[92] Kant's concern, however, is to protect the 'Public Use of Reason' and hence potential acts of communication. And once acts of communication (rather than of expression) are the object of toleration, 'we can see why toleration is a demanding requirement':[93] all *successful* communication requires some sort of recognition or uptake by others – whether understanding of the content or merely recognition that the other seeks to communicate an expression. Attempted communication requires the possibility of recognition.[94] The forms and practices through which we express and communicate toleration of other's opinions, for example rules of order, standards of professional etiquette and of daily civility, embody clear signals of recognition of others' communications, even when there is disagreement or failure of understanding. On this view an expression which can not at least potentially be interpreted by others, can not count as a potential communication, and hence not a Public Use of Reason.[95]

Potential interpretability or communicability as a constraint on the constitution of reason's authority, is a positive way of expressing the first negative constraint on the constitution of reason discussed above: that reason's authority can not appeal to any authority external to reason itself, for to establish reason's authority by appealing to an authority external to reason, is to appeal to an authority which might not be shared by others, and hence may not aid potential communication. Kant's specification that the potential scope of the authority of the Public Use of Reason be universal reflects his commitment to toleration of potential acts of communication: the public use of reason addresses and seeks to communicate with the world at large. What is most significant here is that reason must consequently appeal

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[92] Ibid., p30.
[93] Ibid., pp30-32.
[94] Ibid., p31.
[95] Ibid., p33.

to 'no authority other than that which can be accepted by the world at large'.[96]

Kant refers to reasoning that is premised on power or force as 'private', deprived, incomplete uses of reason, because '[i]n all such communication there is a tacit, un-criticised and unjustified premise of submission to the "authority" that power of office establishes'.[97] For example, a private use of reason is 'that which a person may make of it in a particular civil post or office', that is, in contexts in which the audience is restricted.[98] Civil servants and taxpayers 'must obey and not argue with the orders or doctrine or regulations that govern these roles':

> An appointed priest is "acting on a commission imposed from outside"and the use "he makes of his reason in the presence of his congregation is purely private". [99]

In contrast, a Public Use of Reason 'steadfastly renounces reliance on powerful but ungrounded "authorities" in favour of self-discipline'.[100] Such self discipline takes place when the same cleric, who employed his private use of reason to preach a sermon, 'speaks in his own person'… 'as a scholar addressing the real public' (ie the world at large)... .[101] Similarly, were he to write a book in the privacy of his own home that seeks to communicate with

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[96] Ibid., p35. See also Arendt's reflections on Kant's notion of the 'Public Use of Reason', Arendt, *Lectures on Kant's Political Philosophy*, p40: '...the very faculty of thinking depends on its public use; without the "test of free and open examination" no thinking and no opinion-formation are possible. Reason is not made "to isolate itself but to get into community with others"'. Arendt quoting Kant, 'Reflexionen zur Anthropologie" no 897, Gesammelte Schriften, Prussian Aceademy ed 15: 392.

[97] O'Neill, 'Reason and Politics in the Kantian Enterprise', p17.

[98] O'Neill, 'The Public Use of Reason', p32, quoting Kant 'What is Enlightenment?', VIII, 37; 55-6.

[99] Ibid. , quoting Kant 'What is Enlightenment?', VIII, 38; 57.

[100] O'Neill, 'Reason and Politics in the Kantian Enterprise', p17.

[101] O'Neill, 'The Public Use of Reason', p32 What is Enlightenment, VIII, 38;57.

the 'world at large', he would also be exercising his Public Use of Reason. In this view, while the Public Use of Reason may reach a *potential* audience of broad scope, as it rests on no authority other than reason, the *actual* audience it may reach at any one time is more likely to be small.[102] Here we see that Kant's focus is on potential publicisability rather than conditions of publicity.[103] Further, and as was the case within his accounts of enlarged mentality and reflective judgment discussed above, the Public Use of Reason is characterised as a solitary process which takes place in the mind; Kant grounds reason's authority in his account of the Public Use of Reason in the role it plays making possible *potential* interpretability rather than *actual* communication with the world at large.

The two-part structure so far identified with moral autonomy and aesthetic judgment can again be drawn out of this account of the ground of reason's authority. First, reason's authority can be viewed as grounded in an absence of constraint: the need for a plurality of people(s) who share no a priori authority to find a means to share a world without appealing to force or coercive measures. Second, it is recognised that such people(s) must appeal to some coordinating standards if they are to share a world peacefully. The authority of these standards must nevertheless not be imposed: it must be

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[102] O'Neill argues that while Kant's focus here is on protection freedom of intellectual thought, Kant does acknowledge the importance of toleration within the civic realm: Ibid., p33. See Kant, 'What Is Orientation in Thinking?' p247. 'Opposition to freedom of thought comes firstly from *civil coercion.* We do admittedly say that, whereas a higher authority may deprive us of freedom of *speech* or of *writing,* it cannot deprive us of freedom of *thought.* But how much and how accurately would we *think* if we did not think, so to speak, in community with others to whom we *communicate* our thoughts and who communicate their thoughts to us! We may therefore conclude that the same external constraint which deprives people of the freedom to *communicate* their thoughts in public also removes their freedom of *thought,* the one treasure which remains to us amidst all the burdens of civil life, and which alone offers us a means of overcoming all the evils of this condition'. Freedom of thought is the opposite of that "moral constraint" which some citizens, setting themselves up as guardians of others prescribe articles of faith 'backed up by a nervous fear of the *dangers of independent investigation'.*

[103] O'Neill, 'The Public Use of Reason', p33.

grounded in whatever must be held in common if a plurality are to share a world without relying on force or coercion; again, as is the case within Kant's account of autonomy, potentially shared standards needed for moral order are themselves grounded in an absence of a priori determinate standards or constraints.

As noted above, O'Neill's constructivist account of practical reason also proceeds from her claims that first, Kant gives priority to practical over theoretical reason, second; the Categorical Imperative stands as the foremost principle of practical reason; and following on from these points, that the Categorical Imperative can be held to stand as the 'supreme' principle of reason. Before critically evaluating O'Neill's view that the Categorical Imperative ought to stand as the authoritative action-coordinating standard for a plurality of people(s), I first consider O'Neill's claims concerning the priority of the practical.

The Priority of the Practical in Kant

O'Neill describes Kant's claim that 'practical uses of reason are more fundamental than theoretical uses' as Kant's 'most basic move in seeking to explain the grounds and limits of human reason'.[104] Within contemporary Kantian scholarship, however, the doctrine of the priority of the practical is strongly contested.[105] How well does O'Neill's constructivist interpretation of Reason's authority stand up in the light of these debates?

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[104] Ibid., p29.

[105] For example Jane Kneller argues that while the recent trend toward interpretive strategies that give priority to Kant's practical philosophy has the merits that it has allowed Kant's theory of knowledge to be put into context, the emphasis on the primacy of the practical threatens to obscure much that is philosophically innovative in Kant's theory of aesthetic value. Jane Kneller, 'Aesthetic Value and the Primacy of the Practical in Kant's Philosophy', *The Journal of Value Inquiry,* 36, 2002, p369.

Certainly, and as O'Neill's constructivist interpretation of reason's authority indicates, the limits of empirical or theoretical reason vis-à-vis practical reason is a central theme within Kant's philosophy. As Wood writes

> If Kant's theoretical critique is about the limits of reason in its attempt to acquire theoretical knowledge *a priori* then his practical philosophy is about the proper limitations of *empirically conditioned* reason – reason acting in the service of non-rational desires.[106]

O'Neill finds textual support for Kant's appreciation of the limits of the 'natural' standpoint first in Kant's discussions of the antinomies of reason. As we saw earlier the antinomies arise partly out of the presupposition that reason strives for completeness: if reason seeks a comprehensive view through theoretical reason alone, it will prove to be self-undermining, as 'a naturalistic account of the world lacks closure'; it can not form a coherent account of a spatiotemporal totality that is causally ordered. Kant's solution to the antinomies is to acknowledge the restricted scope of a naturalistic explanation 'which provides a framework for understanding the world as it appears to us, but cannot explain that the world should so appear'.[107]

Second, within the third chapter of *The Grundlegung* Kant reminds the reader that empirical knowledge is knowledge of the world of appearances, and is incomplete; a conception of an unconditioned, intelligible realm (ie non-empirical world) must be formed; the rational being must be regarded as belonging to both the sensible world under the laws of nature, and to the intelligible world which is to be under laws which have their ground in reason alone. O'Neill emphasises that for Kant neither standpoint is eliminable: both nature and freedom 'must be conceived as *necessarily combined* in the same subject'. [108]

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[106] Wood, *Kant*, p129.

[107] O'Neill, 'Reason and Autonomy in *Grundlegung* 3', pp61-62.

[108] Ibid., pp59-60. See Kant, *The Groundwork*, Chapter IV.

Third, O'Neill argues that naturalistic explanations of theoretical, empirical reason are limited because they lack 'intelligibility'. However impressive causal explanations (of neuroscience for example) may be, these are limited because they are conditional explanations; they are incomplete because they do not explain why 'a natural law should take the form that it does'.

> all naturalistic explanations – even the most impressive explanations of some future neuroscience – are conditional explanations of the "appearance of men's wills". . Any explanations offered in terms of events and their effects is incomplete because it presupposes an account of the form of certain principles. … *explanations under the heading of efficient causality presuppose explanations under the heading of formal causality*. In Kant's terminology empirical relations presuppose intelligible relations, or, in the words he uses in the last chapter of *Grundlegung*.[109]

O'Neill characterises Kant as describing the realm of intelligibility here as '…the system of formal conditions that our understanding of the empirical world presupposes'.[110]

Finally Kant's adherence to the limits of empirical reason is reflected in his insistence that the existence of freedom can not be *demonstrated*, because to do so would be to appeal to the authority of empirical, theoretical reason, an appeal which would suggest that the laws of causality have priority over the practical.[111]

O'Neill also argues that the second analogy within the first *Critique,* in which the claims to know that nature is causally ordered is in question, indicates that practical reason, autonomy or agency is a prerequisite for empirical

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[109] Onora O'Neill, 'Action, Anthropology and Autonomy', *Constructions of Reason: Explorations in Kant's Practical Philosophy* Cambridge University Press, Cambridge, 1989, pp68-69 See Kant, *The Groundwork*, Chapter IV.

[110] Ibid., p69.

[111] O'Neill, 'Reason and Autonomy in *Grundlegung* 3', p55.

knowledge: Kant's discussion of the sequence of (subjective) perceptions of a moving ship, indicates that the grounds of objective sequence, and hence naturalistic explanation, lie in the possibility of distinguishing what we control from what is beyond our control; if we do not think of ourselves as agents and transfer ourselves to the intelligible, 'we will never have reasons to think of ourselves as confronting a natural world that is causally determined, and so resists our control'. Here practical freedom is invoked to account for the possibility of causal explanation. [112]

O'Neill argues that 'the enterprise of naturalistic explanation itself *presupposes* (unconditioned) freedom' and that this can not merely mean negative nondetermination by alien causes, but must include the capacity for autonomy or self-determination –'what we call reason'. Acts which bear the mark of reason are viewed as having intelligible and determinate form – rather than as being the effects of determining causal antecedents. Intelligibility is not a matter of being explicable in the terms of theoretical reason but rather, 'is a matter of conforming (to some extent) to standards of reason'.[113]

While there is clear textual support, as well as support in the literature that Kant held to the limitations of empirical reason vis a vis practical reason, O'Neill's argument for the priority of practical reason is strongly contested. Karl Ameriks for example argues that while pure practical reason can be viewed as having a 'kind of pre-eminence' in Kant's philosophy 'because it discloses the basic sources and goals of what is valuable' it does not 'set the

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[112] Ibid., p63.

[113] O'Neill, 'Action, Anthropology and Autonomy', p69. She notes that this is not to suggest that Kant is claiming here to *demonstrate* freedom. He writes in the *Critique of Pure Reason* (A558/B586) that his intention 'has not been to establish the reality of freedom', and that were we to 'yield to the illusion of transcendental realism, neither nature nor freedom would remain' (CPR, A543/B571). O'Neill, 'Action, Anthropology and Autonomy', p70.

fundamental conditions of philosophical argument'.[114] Arguing in a similar vein Jane Kneller criticises O'Neill's reading for resting on a misinterpretation of Kant's view that he 'had to deny knowledge to make room for faith'. She argues that Kant's 'denial' of knowledge here did not entail a repudiation or subordination of cognition, but rather a claim that the method and purposes of a theory of cognition are in an important sense external to those of human moral practice. Kant's account of the 'conditions of the possibility of cognition' is instead 'the locus from which Kant discovers a space outside or beyond the conditions where practical reason might operate'.[115]

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[114] Ameriks argues that Kant's relegation of practical reason to secondary rather than primary status is reflected in the fact that practical reason is treated only in his second *Critique,* and the 'crucial assurance that we *can* have the absolute freedom needed to be able to heed the call of morality presupposes the first *Critique's* theoretical doctrines' – particularly its metaphysics of transcendental idealism. This metaphysics is crucial for Kant as he believes that '*only* it can prove that the spatio-temporal laws covering all ordinary experiences' of our life need not constrain our inner or noumenal reality, and so, rather than having to give up morality in the face of a law-governed nature, we can and should accept morality as the guide to a non-spatio-temporal realm that exists and is more fundamental than nature'. In support of his argument Ameriks presents Kant's basic claim as maintaining that '[i]f we grant that morality necessarily presupposes freedom in the strictest sense…. and if at the same time we grant that speculative reason has proved that such freedom does not allow of being thought, then … morality would have to yield to the mechanism of nature': only because Kant believes that his transcendental idealism provides for the sole escape from 'nature' and the metaphysical contradictions that would keep our freedom from being thought about consistently, can he hold onto the rigorous demands that he believes define our practical reason. Karl Ameriks, *Kant and the Fate of Freedom: Problems in the Appropriation of the Critical Philosophy* Cambridge University Press, Cambridge, 2000, p191, quoting Kant *Critique of Pure Reason*, Bxxix (Norman Kemp Smith Translation, London, Macmillan, 1929).

[115] Kneller, 'Aesthetic Value and the Primacy of the Practical in Kant's Philosophy', p371. Kneller represents O'Neill as basing her argument for the priority of practical reason on the rather empty claim that because the 'Doctrine of Elements' of the first *Critique* inventories the materials but does not provide 'a determinate account of their integrated deployment', maxims to regulate the use of the categories must be adopted. By affirming the authority of the CI, Kneller argues that O'Neill interprets Kant's critical philosophy as a version of social contract theory, suggesting that all value is socially constructed, including even the truth value of the categories and principles inventoried in the first

Ameriks' and Kneller's critiques of O'Neill's defence of the priority of the practical in Kant, both seem to stem from an appreciation of the important role that Kant's transcendental metaphysics, particularly the notions of Pure Reason and the noumenal, unconditioned subject plays in opening up the conceptual space for an account of morality. Perhaps, ironically, it is this same appreciation for the unconditioned nature of the ground of reason, that informs O'Neill's defence of the limits of empirical reason and defence of the priority of practical reason. I am suggesting that up to a point all three theorists converge on the view that the purely formal reason (which Ameriks identifies with 'theoretical reason' and O'Neill identifies with the 'intelligible' in contrast to the 'empirical') is of fundamental significance particularly to Kant's moral theory. The difference is, however, that Ameriks and Kneller identify the authority or source of the notion of the transcendent with Kantian metaphysics, and hence theoretical reason, that which points to the 'space outside or beyond the conditions where practical reason might operate'; O'Neill in contrast identifies this 'space' with practical reason itself, and with good reason it would seem, as the notion of the free-cause, the unconditioned or transcendent is the ground of Kant's account of moral order, the authority of the moral law, and hence practical reason.[116]

Critique, insofar as reason itself is only vindicated later through the constructive act. To interpret the 'Transcendental Analytic' as a mere inventory of materials and hypothesis on the way to account of knowledge as ultimately grounded in 'reflexive social practice' is to undercut the self-standing account of empirical knowledge, and with it, the stance from which to deny that knowledge. (p370) This strongly anti-realist interpretation of O'Neill's constructivism conflicts with O'Neill's own commitments to theorising from minimalist, uncontentious abstractions concerning human capacities and circumstances of justice. O'Neill also makes strong distinctions between her own constructivism and Rawls' more strongly social-contract based approach (see O'Neill, 'Constructivism Vs. Contractualism',). However, it would seem that O'Neill does not clearly explain how her account can stand as other than anti-realist, particularly in the light of historicist insights which challenge her (albeit) minimalist starting points.

[116] Perhaps the crucial point of the contention between these theorists is over O'Neill's claim that *both* forms of reason are grounded on a single 'supreme' principle, and the associated subordination or subsumption of the theoretical (where this is understood to include the

These debates aside, it remains that Kant is fundamentally committed to defending the limits of speculative as well as empirical reason, and to affirming the autonomy and responsibility of the human agent. The latter is achieved through his stipulation that the authority of moral judgments must be grounded in no determinate or conditioned source, that aesthetic judgments derive their authority, in part, from freedom from the sensually given, that creative genius must appeal, fundamentally, to the indeterminate 'law' of Nature, and that the Public Use of Reason must appeal to no 'alien' authority external to reason itself. O'Neill's anti-foundationalist, anti-empiricist, constructivist interpretation of reason's authority, which appeals to no authority external to reason, coheres well with Kant's commitment to defending the limits of empirical reason vis a vis practical reason.[117]

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empirical) to the practical. To support her view O'Neill cites Kant's statement within the *Groundwork* that 'a complete critique of practical reason "should be able at the same time to show the unity of practical and theoretical reason in a common principle, since in the end there can only be one and the same reason"'. O'Neill, 'Reason and Autonomy in *Grundlegung* 3', p51, (G, IV, 391). This interpretation is rejected by Kneller who argues that it is hard to square claims to the methodological primacy of practical reason with Kant's stated need to establish separate domains for the various applications of reason. Here her point converges with Rawls' view discussed above (see Rawls, 'Themes in Kant's Moral Philosophy',). In addition Kneller argues that Kant states that the task of the third *Critique* is to reunite the otherwise separated theory and practice in the same subject through the mediation of 'a reflective concept of purpose and its human manifestation in a universally communicable feeling'. O'Neill's construal of the problem of reason as that of uniting thought and action under a single principle neglects Kant's overarching aim: 'of finding a mediating principle to negotiate and harmonize, but not to subsume, the two capacities of reason'. Kneller, 'Aesthetic Value and the Primacy of the Practical in Kant's Philosophy', pp371,372.

[117] And as Alan Wood observes 'Nothing is more characteristic of Kant's critical system than the thesis that the metaphysical questions with which human reason is most profoundly concerned – questions about the existence of God, freedom of the will, and immortality of the soul – cannot be answered by theoretical or speculative reason, but can be addressed only from a practical (or moral) point of view'. And while Kant did not begin his philosophical career as a *moral* philosopher, it is evident that over the course of his career, the practical (or moral) standpoint became of increasing importance within his conception of philosophy as a whole. Wood, *Kant's Ethical Thought*, p12.

What then of O'Neill's own appropriation of her interpretation of Kant's vindication of reason?

O'Neill: The Categorical Imperative as the Shared Standard of Reason

So far I have suggested that the two-part structure identified above with (non-cognitive) forms of Kantian judgment, recurs within Kant's account of the Public Use of Reason: first, representing the first component of reason, reason's authority rests on an absence of a priori standards (for reason's authority must not appeal to force, and given human plurality, no shared standards can simply be assumed). How then might the second component of the two-part structure, explain how shared standards of reason can be constituted, given human plurality and the requirement that such standards must not appeal for their authority to anything external to reason?

O'Neill argues that the Categorical Imperative constitutes such a standard: The CI, particularly in the formula of universal law – act so that the maxim of your action can stand as a universal law – can itself be understood to represent a principle of thinking and acting for a plurality who must share a world, but no a priori authority.

As we have seen, in her interpretation of the structure of the first *Critique*, reason is presented as partly constituted by cognitive elements or 'materials' (as discussed in the 'Transcendental Doctrine of Elements') including 'manifold and forms of intuition, categories and algorithmic procedures' (for example as found in logic or arithmetic). However, O'Neill emphasises that Kant does not provide an account of their deployment in complete acts of judgment. While reason is partly constituted by these elements and capacities, these are not fundamental to the authority of reason. The structure of the first *Critique* reflects Kant's view that 'the elements of human knowledge are not self-constructing' and must always be put together according to 'some plan or other'. As this plan is not pre-inscribed in each of us, and neither can we assume pre-established harmony between reasoners, nor between each reasoner and a transcendent reality, such a plan must be constructed. Here we must look not to theoretical but to practical reason. 'In the end a *practical* principle must guide all complete acts of judgment'. The elements, materials and capacities of reason (identified with sensibility and

understanding) must be used in conjunction with 'Ideas of Reason or maxims of judgment'.[118]

O'Neill argues that a minimal, 'negative step' towards constructing such a plan or principle of reason is to 'refrain from adopting plans that others cannot adopt'.

> If there is to be any plan that is not based on despotic use of force, it must be an agreed plan. However, without procedures for reaching agreement there is nothing to be done except refrain from preventing agreement. The only move that can be made toward the possibility of agreement in the absence of any procedures for agreeing is for each to act only on principles which others at least can (though they many not) agree to act'.[119]

As we have seen above, O'Neill argues that the most basic requirement for the coordination of a plurality of agents is that any 'fundamental principles of thought and action we deploy be ones that it is not impossible for all to follow'. This is to 'base action and thought only on maxims through which one can at the same time will that they be universal laws'. In this way O'Neill argues that the fundamental principle of all reasoning and acting is to act on this maxim, which 'is simply to make what Kant elsewhere calls the Categorical Imperative the supreme principle not only of practical but of all reasoning'.[120] The Categorical Imperative stands as 'a strategy for avoiding principles of thinking, communicating and acting that cannot be adopted by all members of a plurality whose principles of interaction, let alone actual

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[118] O'Neill, 'Reason and Politics in the Kantian Enterprise', pp19-22. Further, '[a]n account of human knowledge will be systematically indeterminate unless these maxims are identified and vindicated'.

[119] Ibid., pp23,22.

[120] Ibid., pp19-20,23. This negative condition has two aspects: first, that the proposed principle is followable, that is intelligible to those to whom it is addressed, and second, all in that domain must be able to *adopt* the principle without incoherence (pp51, 55-59).

interaction (let alone coordination!) are not established by any transcendental reality… it points to limits to the principles that can be shared'.[121]

On this reading then, the CI is fundamental to reason's authority as it stands as a strategy for acting and thinking required by a plurality who are to share a world without relying on force or coercion. However, and as I argued in Chapter One, this is to presuppose the authority of discursive standards of reason. And such a presupposition conflicts with Kant's view that the ground of reason's authority is not shared standards, but rather an absence of such determinate standards or forms – identified within his account of moral autonomy with the unconditioned. Considered in the light of Kant's repeated assertion that 'the Public Use of Reason must always be free' and that 'reason must in all its undertakings subject itself to criticism', as well as, as I argue below, Kant's view of the historical evolution of reason, the view that CI represents a fundamental standard needed by a plurality who are to share a world without appealing to force or coercion can not be sustained.

In the light of O'Neill's constructivist vindication, reason can be viewed as a response to the predicament of a plurality who must share a world through communication, and without appealing to force, and in the absence of any pre-existing shared authoritative standards. Consequently, to sustain reason's authority, it must be ensured that shared standards of reason are in fact those needed if there is to be un-coerced communication between a plurality. Following on from this, if existing standards of reason themselves can be shown to contribute to coercion in the course of providing a standard for communication between a plurality, then there are Kantian grounds for revising these standards so that non-coerced communication can be accounted for.

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[121] Ibid., p24. According to this view, algorithmic procedures, formal calculi, models of rational choice etc. are *aspects* of reason, but ones which presuppose rather than articulate what is most crucial for reasoning. (p19)

Further, while it is acknowledged that there must be shared standards of reason if there is to be moral order based on non-coercive measures, these standards themselves are not most fundamental to reason's authority. Rather, these standards must themselves be subject to a more fundamental authority: the capacities needed to critically evaluate existing standards of reason to ensure that they do in fact facilitate non-coerced communication, given plurality. Consequently, it is the critical faculties needed to critically evaluate and if necessary revise existing standards of reason, so that they might better promote communication between a plurality of otherwise uncoordinated people(s), that are fundamental to reason's authority.

From this interpretation of reason's authority, I draw out again the two-part Kantian structure identified above which I employ to construct the proposed account of autonomy: reason can be viewed as constituted by first, the capacities needed to suspend, critically evaluate and if necessary revise existing standards of reason, and second, shared standards of reason themselves. As we have seen is the case within Kant's accounts of non-cognitive judgment, fundamental to the authority of shared standards of reason is an indeterminate, unconditioned, unformed component, represented here in the capacity to suspend existing standards, opening the way to then subjecting them to critical evaluation without presupposing any pre-existing authority. The second component consists of those existing authoritative standards of reason whose authority can only be sustained by subjecting them to this radical critical evaluation – which must take place to ensure that they can be vindicated as standards needed if there is to be non-coerced communication, given plurality.

This view that it is not existing standards of reason, but rather capacities needed to subject these standards to critical evaluation that are fundamental to reason's authority, has deep implications for normative liberal thought.

The view that it is capacities needed, whatever they might be, to critically evaluate one's own existing authoritative standards, including standards of reason, that is more fundamental to reason's authority than the existing standards of reason themselves, is reinforced by Kant's view of the evolution of reason.

Practices of Toleration and the Progress of Reason

As we have seen, according to O'Neill's interpretation of Kant's vindication of reason '[t]he appeal to reason means invoking a range of cognitive procedures, strategies, and standards – though none of these procedures or standards are fixed or beyond criticism and revision'.[122] As Chandran Kukathas argues, this last point is of crucial importance:

> It indicates that our warrant for paying attention to the determinations of reason has nothing to do with settled standards or procedures: reason's "authority," such as it is, rests on its being implicated in a structure of openness and criticism.[123]

In her defence of the CI as the fundamental principle of reason O'Neill argues that fundamental to reason's authority are the capacities Kant identifies with *sensus communis*, as outlined in the 'maxims of common human understanding' (to think for yourself, to think in the place of everyone else, and to always revise your thinking in the light of new-found beliefs). O'Neill identifies these are 'practices of toleration in communication': capacities needed to be open to and critically evaluate new and different ideas and values, so that potential communication between a plurality of people(s) can take place. These maxims 'articulate the self-discipline of thinking that will be required if there is to be communication among a plurality whose members are not antecedently coordinated, who form a merely possible community'.[124]

In the light of her interpretation of Kant's critical project, O'Neill argues that for Kant, 'the only route by which we can vindicate certain ways of thinking and acting, and claim that those ways have authority, is by considering how

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[122] Kukathas, 'Cultural Toleration', p79.

[123] Ibid. .

[124] O'Neill, 'Reason and Politics in the Kantian Enterprise', p25.

we must discipline our thinking if we are to think or act at all'.[125] And
following on from this

> [i]f reason itself is both secured and disciplined by practices of toleration in
> communication, there are the deepest reasons for seeking and maintaining
> those practices … [t]hose who flout reasoned maxims of communication
> risk damaging the authority of shared standards of reasoning.[126]

Kantian grounds for revising Kant's understanding of 'practices of toleration
in communication', and hence the ground of reason's authority, can be found
in his historical, evolutionary view of the progress of human reason towards
greater and greater universality.[127] This 'developmental and historical
framework' of reason is an account of the evolution of 'incipiently public' or
'private' uses of reason, towards fully public uses of reason.

As we saw earlier, within 'incipiently public' or 'private' uses of reason
'human reasoning is still subject to alien authorities of one or another sort'.
Only as 'alien authorities' are replaced by practices of toleration does the
private use develop into the Public Use of Reason.[128] O'Neill argues that

> lack of toleration of incipiently public uses of reason blocks the only route
> by which revised or more widely shared standards for debates and
> communication can be established, or maintained. Intolerance brings
> unreasoned authority to bear on communication. [129]

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[125] Ibid., p27. And as we have seen, she argues that this disciplining leads us to 'certain
constraints on all thinking, communication and interaction among any plurality' – in
particular to the 'principle of rejecting thought, action or communication that is guided by
principles that others cannot adopt' – that is, the Categorical Imperative. (p27)

[126] O'Neill, 'The Public Use of Reason', p47.

[127] Ibid., p38. O'Neill argues this is part of the thinking behind his repeated assertions that
'the Public Use of Reason must always be free'.

[128] Ibid., p40.

[129] Ibid., p48.

Further, '[i]f the emergence of standards of reason is a gradual matter, there are excellent reasons to extend toleration to communications that in hindsight either appear irrational or advocate intolerance'; for the standards by which such communications can be identified or criticised remain uncertain.[130]

> Toleration, at least of incipiently public uses of reason, has then a quite fundamental status in Kant's thought. Without it the authority of reason ebbs ... Kant's thought is … that a degree of toleration must characterize ways of life in which presumed standards of reason and truth can be challenged, and so acquire the only sort of vindication of which they are susceptible. … Practices of toleration help constitute reason's authority.[131]

In this view, our rationality itself is dependent on our exercise of capacities needed in order to engage with people who adhere to authorities different from our own, in ways that are open to the possibility that by embracing their forms of reason, our own will be rendered more universal.[132]

Following on from this, if our existing understanding of reason is itself found to be blocking the process of communication with what are understood to be 'incipient' forms of reason, then the very authority of reason depends on revising this understanding, including our understanding of the 'practices of toleration of communication' on which it rests, so as to better facilitate communication with people who adhere to authorities (or forms of reason) different from our own.

In the light then, of Kant's developmental view of reason which admits that existing standards of reason might be enlarged through contact with

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[130] Ibid., p40. '[T]his toleration cannot, without damage to prospects of establishing standards of reason, be extended to action that suppresses attempted communication of any sort.

[131] Ibid., pp38-39.

[132] See Ibid., p47.

'incipient' reason, there are good grounds for revising even Kant's own more substantive views on the constitution of reason.

Rejecting the Categorical Principle as the Supreme Standard of Reason

Kant's view of the evolution of reason, O'Neill's constructivist vindication of reason, as well as the structure of Kant's accounts of autonomy which gives priority to the unconditioned over and above shared standards, all provide grounds for rejecting O'Neill's view that the Categorical Imperative ought to stand as the supreme principle of reason, as providing a standard that can be vindicated as that which must be presupposed if a plurality are to share a world without resorting to force. As we saw in the preceding chapter, O'Neill's and Kant's accounts of reason rest on what would seem to be an unexamined assumption that reason is constituted by discursive standards of reason. Such a view of practical reason gives prior authority to shared standards of discursive reason, over and above the critical faculties which might themselves bring the authority of these standards into question. This would seem to conflict with Kant's own commitment to the radical scrutiny to which reason must be subject if its authority is to be sustained.[133] According to O'Neill's constructivist reading, the authority of principles of reason is that they are themselves subject to critical scrutiny, a scrutiny which 'knows no respect for persons'.

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[133] Kant insists that reason's authority rests fundamentally on the radical critical scrutiny of existing standards of reason. O'Neill writes 'Reason's authority consists simply in the fact that the principles we come to think of as principles of reason are the ones that are neither self-stultifying nor self-defeating in use. The best way to find which principles have this character is to encourage the increasingly Public Use of Reason… We would deny reason and curtail its authority if we put some authority (such as state or church) above it. To accept and foster the authority of reason is to submit disputes to free and critical debate. … [A] degree of toleration must characterize ways of life in which presumed standards of reason and truth can be challenged, and so acquire the only sort of vindication of which they are susceptible'. Ibid., pp38-39.

> The warrant that we have for following and trusting such procedures is that they are always subject to self-scrutiny and correction. The successful use of certain cognitive procedures, strategies and standards, including their successful reflexive use, where success is understood in terms of these very procedures, strategies and standards, confers authority.[134]

And while Kant emphasises the need for laws of reason, he also maintains that such laws must themselves be subject to radical critical scrutiny. As he writes in the first *Critique*

> Reason must subject itself, in all its undertakings, to criticism, and cannot limit the freedom of such criticism to prohibitions, without harming itself and incurring a damaging suspicion. There is nothing, however useful, however sacred it may be, that can claim exemption from the searching examination of this supreme tribunal, which has no respect for persons. The very existence of reason depends on this freedom.[135]

An additional Kantian reason for revising, within the proposed account of practical reason/autonomy, Kant's more substantive views on practical reason which associates it with the faculties of discursive reason (as suggested by the maxims of common human understanding, as well as the notion of 'practical freedom' which identifies freedom with critical reflection in the light of the moral law), is that it is hard to reconcile this determinant view of practical reason with Kant's view that human dignity and autonomy is grounded, most fundamentally, not in any empirical, determinate forms or shared standards of reason, but rather, freedom from determinate conditions. To the extent that discursive standards and faculties of reason are viewed, empirically, as part of the conditioned realm – which they must be if they are part of any substantive conception of practical reason – then they can not be presupposed to be fundamental to the constitution of practical reason and autonomy.

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[134] Ibid., p36.

[135] Kant, *Critique of Pure Reason*, p483.

I am arguing then that reason can be viewed as constituted by first, critical capacities needed to suspend, evaluate and if necessary revise existing standards of reason, where these critical capacities are viewed as fundamental to reason's authority, and second, authoritative, shared standards of reason themselves. These radical, critical faculties and standards of reason must also be vindicated as the commonality requisite for a plurality of people(s) to share a world through communication and without appealing to force or coercion. In the following chapter I argue that a more capacious account of human commonality is required than presupposed by either Kant, O'Neill or Rawls, if it is to be vindicated on these grounds and also cohere with the two-part structure, which identifies the first component with that which transcends the conditioned.

Summary and Conclusion

In this Chapter I argued first, that the same two-part structure identified with Kant's formal account of moral autonomy, and employed to affirm and protect the freedom and responsibility of the judging subject, also features within Kant's accounts of aesthetic judgment and the creative acts of genius. Here I also suggested that Arendt's notion of shared examples/exemplars might serve within a substantive account of practical reason/autonomy, the same function that *the schema* serve within Kant's account of cognitive judgment, and be employed to explain how determinate form is brought to the unconditioned ground of judgments – a process identified with Kant's sketchy notion of the faculty of imagination.

I then looked to O'Neill's anti-foundationalist, constructivist reading of Kant's critical project for grounds with which to vindicate reason: unlike Descartes who presupposed an innate reason 'whole and complete in each of us', Kant, within his *Critique of Pure Reason* saw his as a constructive task. In the light of his more political reflections on the Public Use of Reason, reason's authority can be persuasively viewed as grounded in its standing as the commonality required of a plurality of whom no other authority can be assumed. I argued that again the two-part structure identified with non-cognitive forms of Kantian judgment, which proceeds from an absence of constraint, of pre-existing standards, and then builds from this an account of the possibility of shared, authoritative standards, is evident.

The authority of shared standards of reason must be grounded on nothing external to the possibility of communication between a plurality of whom no antecedent, coordinating authority can be assumed, but rather on that which must be assumed to be held in common by all, by virtue of being particular to none. Shared standards of reason must be vindicated by the function they serve in making possible potential interpretability or communicability, given plurality, where this does not involve any use of force or coercion. Reason's authority is grounded, fundamentally, in the critical faculties needed to suspend, critically evaluate and revise existing standards of reason to ensure that they facilitate non-coerced communication between a plurality of whom no pre-existing shared standards can be assumed.

I argued that O'Neill's suggestion that the Categorical Imperative can stand as the shared, authoritative standard of reason required by a plurality, presupposes the authority of discursive standards of reason, and conflicts with Kant's view that reason's authority rests fundamentally on critical faculties needed to radically evaluate and if necessary revise existing standards of reason, as well as the two-part structure of non-cognitive forms of Kantian judgment.

Having identified the Kantian grounds for justification of the proposed account of autonomy, and delineated and defended a two-part Kantian structure consisting of (1) a fundamental unconditioned component and (2) a component which explains how shared authoritative standards, grounded in the former, unconditioned component might be possible, I turn now to identify core concerns and commitments within contemporary political debates, particularly regarding justice and respect, which must be addressed in the proposed account of autonomy.

Chapter 3: Dignity and Difference

In this chapter I identify core commitments concerning respect and justice within what I characterise as the two dominant, contrasting streams within contemporary political thought. I refer to these as the 'Dignity' and the 'Difference' streams.

I have taken the terms Dignity and Difference from Charles Taylor, who employs them in his discussion of the conflicts between the 'politics of universal dignity' and 'politics of difference' (or 'identity politics'). He argues that these are both aspects of the 'politics of (equal) recognition' which emerged out of the collapse of traditional social hierarchies of the honour system of the *ancien regime*, in which inequality was integral.[1] While recognising that both are grounded in a universalist commitment to equal respect, Taylor highlights the conflicts between the politics of Dignity and Difference, arguing that for the politics of difference '[t]he idea is that it is precisely this distinctness that has been ignored, glossed over, assimilated to a dominant or majority identity'.[2]

Certainly, major lines have been drawn within contemporary political thought between universalists, focussed principally on defending that which can be held in common, most often principles of justice and human rights, and particularists who focus more on defending recognition for socio-cultural and individual particularity. This is, however, an easily overdrawn

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[1] Taylor argues that the 'politics of recognition' was first reflected in the modern universalist demand for something in which we all share: equal 'dignity'. The 'politics of difference' then developed with the emergence of the modern notion of the authentic, individualised, identity: the demand that everyone should be recognised for his or her unique identity. Charles Taylor, 'The Politics of Recognition', *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutmann Princeton University Press, Princeton, 1994, pp37-39.

[2] Ibid., p38.

distinction: first, theorists associated with both camps are often very sympathetic to the concerns of those within the other; second, human commonality and particularity are intimately interrelated, not least because 'we are all the same, that is human, in such a way that nobody is ever the same as anyone else who ever lived, lives or will live'.[3]

In this project I am seeking to reconcile the demands for recognition associated with identity politics and the politics of difference, with the egalitarian impetus to ground moral and political order in human commonality. Following Kant, I view the problem of trans-cultural justice as one which requires the affirmation of sufficient human commonality, to account for the possibility of a plurality of people(s) sharing a world, without resorting to coercive measures which undermine this plurality.[4]

As stated at the outset, a major justification for the proposed account is that it is designed to respond most adequately to contemporary debates within political thought.[5] In this chapter I focus on debates concerning justice and respect, not only because the question of justice has become central to normative political thought, but also because the proposed account of autonomy will be defended, following Kant, as the commonality that must

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[3] Arendt, *The Human Condition*, p8; Taylor, 'The Politics of Recognition', p39 .

[4] My position here resembles that of Karl Otto Apel when he writes that the 'universalism of fundamental norms of justice and co-responsibility concerning the solution of common problems of humanity', and the 'pluralism of belonging to different socio-cultural forms of life and their different value traditions' need to be recognised as 'complementar[y] polar opposite values which must presuppose each other but cannot be reduced to each other'. Karl-Otto Apel, 'The Problem of Justice in a Multicultural Society, the Response of Discourse Ethics', *Questioning Ethics: Contemporary Debates in Philosophy*, eds. Richard Kearney and Mark Dooley, Routledge, London; New York, 1999, p147.

[5] The fundamental reason for engaging in this task, which I clarify further below, is that as stated at the outset, the underlying aim of this thesis is to theorise autonomy in a way that best promotes its practical realisation. In the light of the ontological framework I defend below, I argue that by engaging with contemporary debates within normative political thought I can contribute directly to this.

be assumed to account for the possibility of moral order (or justice), given plurality. Consequently, to determine how to best conceptualise a Kantian account of autonomy which also responds most adequately to debates within contemporary political thought, I first identify the core commitments and insights informing contemporary debates concerning justice, respect, and human plurality, (ie including historicist insights and the critique of identity/difference) with a view to constructing an account of autonomy adequate to these insights and commitments.

I begin the chapter by using a broad brush to identify key characteristics of respect and justice within the Dignity perspective, and then focus on recent debates within what is arguably the dominant branch of Anglo-American normative theory which has developed in the wake of Rawls' *A Theory of Justice*. I then turn to the Difference perspective, highlighting its radical shift away from the traditional justificatory task of normative political thought. I consider the implications of this critique for normative political thought, drawing particularly on the work of Iris Marion Young, James Tully, Stephen White and William Connolly. I also signal how tensions between commitments to equality and plurality within radical and deliberative theories of democracy might be reconciled within the proposed theory and sketch a conception of pluralist, democratic social order which coheres with autonomy as creative action. I conclude by identifying the core concerns which must be addressed within the proposed account of autonomy, particularly in the light of the proposed Kantian structure and justification.

Dignity, Respect and Justice

In the preceding chapters we saw that Kant's critical projects defend the possibility of objective (ie in the Kantian sense of being necessary and hence universally authoritative) principles of pure and practical reason, and of aesthetic judgment. Contemporary Neo-Kantian thought which has

developed in the wake of John Rawls' *A Theory of Justice* has also pursued projects of justification and legitimation. Within what I am referring to as the Dignity stream of political thought, justification is sought for principles or procedures generally intended to guide moral or political deliberation.[6]

The treatment of the notion of 'respect' within the Dignity perspective reflects this stream of thought's concern with the justification: to justify principles of justice and human rights these theories presuppose conceptions of the good.[7] Here discussions are generally centred around that which makes us worthy of respect, moral consideration or equal treatment.[8] This approach can be contrasted with Neo-Aristotelian thought which focusses more on the capacities and virtues which must be exercised when actively engaging respectfully with others.[9]

Charles Taylor's characterisation of understandings of respect in the 'modern west' illustrates the centrality of a conception of human being, of what it is

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[6] Such principles – most often of human rights or justice – represent potentially shareable standards in the light of which deliberation can take place over, for example, the proper limits to the power of the state (Locke, Mill) or within more contemporary literature, questions of distributive justice (Rawls, Nussbaum, Kymlicka). These principles and rights may also serve to legitimate the authority of the state, providing moral justification for actions undertaken under its auspices, including, in the case of universalist human rights, interventions into other sovereign territories.

[7] While this is a claim that has been subject to much debate, as discussed below, it has now been widely acknowledged that conceptions of the good are an unavoidable part of normative political thought. See for example Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, pp16-17.

[8] Interestingly, at the end of *A Theory of Justice* Rawls argues that principles of justice ought *not* be derived from respect for persons. He argues that it is only 'once the conception of justice is on hand' that 'the ideas of respect and of human dignity can be given a more definite meaning'. Respect for persons is manifest, particularly in the content of the principles to which we appeal when we treat them 'in ways that they can see to be justified'. Rawls, *A Theory of Justice*, pp585-586.

[9] '[W]e are studying not to know what goodness is, but how to become good men' Aristotle, *The Nicomachean Ethics*, trans. J.A.K. Thomson, Penguin Books, London, 1955, p93.

that gives us dignity, and makes us worthy of respect and moral consideration, to understandings of respect, at least within the western philosophical tradition. Taking issue with a socio-biological perspective, Taylor argues that 'the whole way in which we think, reason, argue, and question ourselves about morality' presupposes 'gut' feelings as well as 'implicit acknowledgements of claims concerning their objects', that is, 'various ontological accounts [which] try to articulate these claims'.[10] Our western notions of human dignity embrace a particular ontology of human being; 'an *account* of what it is that commands our respect'. Such an account may tell us that human beings are 'creatures of God and made in his image'.. 'that they are immortal souls,' …'or that they are all rational agents and thus have a dignity which transcends any other being'. Here it is because of some or other such characterisation that we owe human beings respect. Taylor goes so far as to suggest that a 'moral reaction is an assent to, an affirmation of, a given ontology of the human'.[11]

Within the Dignity stream, treatment of the notion of justice has also focussed on justification of principles of justice and human rights rather than substantive capacities needed to realise justice. An implicit, normative view of what the realisation of justice entails, can nevertheless be identified with this stream of thought: at least to the extent that this approach is concerned with justifying principles for potential use within the political arena, (ie as distinct from the more strictly philosophical concern, of Kant for example, with formal vindication of principles) justice here is viewed as a process that involves adjudication, which proceeds from shared, authoritative principles,

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[10] Taylor, *Sources of the Self: The Making of the Modern Identity*, p7.

[11] Ibid., p5. See also Nussbaum's argument that two vital 'moral sentiments' of compassion and respect 'can have their home only within a view that recognizes a determinate conception of the human being'. Nussbaum, 'Human Functioning and Social Justice, in Defence of Aristotelian Essentialism', pp237-241.

particularly of justice and human rights.[12] Here justice most often concerns the just distribution of social resources (including, even, human 'goods' such as love and power).[13] And as we have seen in the case of Rawls' and O'Neill's work above, such principle-focussed accounts of justice also presuppose common capacity for discursive thought.[14] In addition, theories of justice and human rights working within the broadly Neo-Kantian, social contract tradition must also explain how citizens can come to recognise the legitimacy, and consent to the authority of principles of justice and human rights. Earlier social contract theories appealed to knowledge of God and a transcendent truth; as argued above, more recently theorists have appealed to discursive reason to explain how people could come to know and consent to principles of justice/human rights.

I am characterising the Dignity perspective then, as an approach to normative political thought which seeks to defend the potential authority of moral and political principles by proceeding from assumptions about what it is that makes human beings worthy of moral consideration. To the extent that such theories are understood to have practical application, they suggest

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[12] That adjudication is presupposed to be integral to justice, is reflected in Andrew Vincent's comments on the challenges human plurality and the politics of difference pose to normative political thought: 'Many theorists still argue that there is a dire need for some method to adjudicate between rival rationalities, although it is becoming more difficult to know how to do this'. Vincent, *Political Theory: Tradition and Diversity*, p20.

[13] For example within *A Theory of Justice* Rawls presents principles of justice as those which '... provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation.' Rawls, *A Theory of Justice*, p4. For critical evaluation of the distributive approach to justice see Young, *Justice and the Politics of Difference*, p15. On the just distribution of such 'social' goods see Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* .

[14] As discussed below, recent liberal theory has defined practical reason more broadly, incorporating capacities and virtues needed to perceive and communicate with sensitivity to difference and otherness. See for example Martha C. Nussbaum, 'The Discernment of Perception: An Aristotelian Conception of Private and Public Rationality', *Love's Knowledge* Oxford University Press, Oxford, New York, 1990. It remains, however, that priority within this stream is given to faculties needed for discursive reason.

a substantive conception of justice as adjudication in the light of shared, authoritative principles, which in turn presupposes capacity for discursive reason, needed both to recognise the authority of the principles, and to engage in the kinds of deliberative process implied by appeal to shared, authoritative principles.

What then are the core concerns and commitments within what is arguably the dominant, contemporary branch of this stream of thought?

Contemporary Debates within the Dignity Stream

Within his survey of trends within contemporary political thought, Andrew Vincent identifies the central task within contemporary normative political theory, as to ascertain how political order should be established, by deriving a set of institutional arrangements and political processes, from a set of fundamental premises or foundational assumptions.[15] He identifies liberal justice theory as the 'prevalent discourse' within the field of normative political thought and the 'dominant mode of operation' within justice theory, a form of argument derived from social contract theory, where justice is viewed as 'the process and outcome' of individuals coming to a rational decision or agreement.[16] The most influential contemporary example of this form of contractarian thought has been Rawls' *A Theory of Justice*.

Since Rawls' *A Theory of Justice*, much debate within liberal political thought has been devoted to constructing a defensible liberal form of justification for principles of justice or human rights. It has often been concluded that these

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[15] Vincent, *Political Theory: Tradition and Diversity*, p15.

[16] For example within *A Theory of Justice* Rawls identifies moral philosophy with 'the study of the conception and outcome of a suitably defined rational decision.' … 'The merit of the contract terminology is that it conveys the idea that principles of justice may be conceived as principles that would be chosen by rational persons, and that in this way conceptions of justice may be explained and justified.' Rawls, *A Theory of Justice*, p251.

debates culminate in an 'impasse'.[17] At risk of oversimplification, this refers to seemingly irreconcilable tensions within liberalism between primary commitments to, on the one hand, accommodation and respect for human diversity, and on the other, promoting liberal moral and political order and conceptions of the good. In the following discussion I draw heavily on George Crowder's characterisation of these debates to identify first, the core commitments within them, and second, the most persuasive strategies employed to address these apparently conflicting liberal commitments.[18]

Four influential forms of justification, which can be organised around two central issues, can be identified within these debates.

The first issue is whether liberalism should be defended on either 'perfectionist' grounds, as a substantive conception of the good which privileges liberal values over others, or on 'neutralist' grounds, as an

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[17] George Crowder, *Liberalism and Value Pluralism* Continuum, London, New York, 2002, pp40-42; Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, p6. Drawing on Joseph Raz's distinction between two kinds of respect for persons, respect for their 'will' (ie to acknowledge that it is sometimes more important for a person to choose freely than to choose correctly) and respect for their 'intellect' (ie to respect the reasonable choices of individuals, rather than necessarily their brute empirical choices). Neal characterises this impasse as a seemingly irresolvable tension between values of tolerance and equality on the one hand and the need for some reasoned authority to explain how we might come to some agreement on the other: 'We (liberals at least) seem then to be in a position of not being able to live with the will model, but not being able to live without it. To endorse it is to remove the possibility of consensus, in the name of inclusiveness; to deny it, and affirm instead the intellect model, is to purchase consensus at the price of inclusiveness'. Neal, *Liberalism and Its Discontents*, p155. Neal concludes that both the will and the intellect models are 'absolutely necessary to the existence of a regime of freedom'… 'We cannot affirm one at the expense of the other – and yet no synthesis is possible. There is no "solution" to this "problem"'. Or perhaps it is not a "problem" – rather, 'a description of the life-giving antagonism which is constitutive of free politics.' (p158-159); the impasse can also be viewed as a symptom of what Tomas Nagel has called the 'paradox of liberalism' see Hampton, 'Should Political Philosophy Be Done without Metaphysics?' p803.

[18] Crowder, *Liberalism and Value Pluralism*, pp26-43.

instrumental political settlement which seeks to avoid judgments about the good to accommodate a diversity of conceptions. Policy implications here include whether the liberal state ought to promote a liberal morality, or whether it should be more committed to accommodating non-liberal practices and ways of life which may come into conflict with liberal values.[19]

The second issue is whether liberal justification should be 'universalist' or 'particularist'. At stake here is the potential *scope* of the authority of justifications for liberal political order for example, whether liberal policies such as the promotion of human rights should be encouraged or even enforced cross-culturally and/or universally, or whether liberalism ought to refrain from criticising traditions who are not sympathetic to liberal values.

These two sets of positions – perfectionism versus neutrality, and universalism versus particularist cut across each other, producing a two-issue matrix of possible justificatory strategies which are actually vigorously contested positions held by contemporary liberal theorists: universalist neutrality and particularist neutrality, and universalist perfectionism and particularist perfectionism. In the following I outline each position and then draw out the core, shared commitments within this stream of thought as well as the most effective justificatory strategies employed to address them.

Neutrality Versus Perfectionist Liberal Justification

The 'neutrality' form of justification is employed by Rawls in both *A Theory of Justice* and his later, political, revisions of 'justice as fairness'. Neutrality is a contemporary expression of one of the strongest originating commitments within the liberal tradition: to accommodate diversity.[20] The roots of this

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[19] Ibid., p27.

[20] Galston identifies three kinds of arguments for 'taking diversity seriously' First, we must acknowledge diversity is a fact – which 'could be significantly altered only through the employment of unacceptable levels of state coercion'; second it can be defended

strain of thinking go back to the accommodationist writings of Locke and Mill who sought, respectively, to curtail the scope of the authority of the state to accommodate religious differences and to protect a 'region of human liberty' (ie freedom of thought and expression, of association, and freedom to frame 'the plan of our life to suit our own character'.[21] Here Mill's accommodationist principle that the state ought to tolerate all forms of life so long as they do not harm others (ie his 'principle of harm'), is in a sense extended to embrace the additional idea that 'the rules that secure toleration must themselves be impartial among the different life plans'. The liberal state is thus viewed as providing a framework of justice (as represented by principles of justice), which is neutral or impartial among the different plans of life, and 'within which more substantial, and therefore more controversial, conceptions of the good life can coexist peacefully'.[22]

In contrast, 'perfectionist' liberalism (a term coined by Rawls) is a form of liberal justification which maintains that it is the role of the state to identify and enforce a particular conception of the good. This form of justification reflects the long-standing liberal commitments to the 'liberation of the individual and the assertion of a distinctively liberal conception of the good'.[23]

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instrumentally, as a means to enhancing the meaning of particular commitments or, alternatively as the surest obstacle to sectarian tyranny and third, it may be embraced as an intrinsic value. Galston, 'Two Concepts of Liberalism', p527.

[21] Crowder, *Liberalism and Value Pluralism*, p28, quoting Mill, *On Liberty* ed. G Himmelfarb, Penguin, Harmondsworth, 1974, p71.

[22] Ibid., p29. Crowder argues that the claim to neutrality of the framework hinges on a claim that 'unlike the substantial conceptions of the good it contains, it is the object of reasoned agreement' and that '[i]t can be the object of reasoned agreement because it does not depend on any particular conception of the good to the exclusion of others'.

[23] Ibid., pp35,36. An important liberal conception of the good is the ideal of personal autonomy which, following Kant and Mill, excludes 'conceptions of the person as governed by unbridled emotions or uncritically received traditions'.

Universalist Neutrality

In its initial contemporary form, neutralist liberal justifications present liberalism as an instrumental political settlement which seeks to accommodate a diversity of conceptions of the good. It consequently presents liberalism as a view which seeks to eschew judgments about the good, and does not claim to compete with other substantial conceptions. Liberal neutrality has been associated with Rawls' stipulation in *A Theory of Justice* that the 'right' (the rules and principles that make up the liberal framework which encloses and regulates the contending conceptions of the good) must be prior to the 'good'.[24] Reflecting its universalist commitment, this position also defends the potentially cosmopolitan scope of liberalism, maintaining that as liberal principles and institutions are rationally and ethically superior to all alternatives, regardless of time and place, the authority of liberal principles of justice ought to extend universally.[25]

The neutrality component of this justification has been criticised for failing to be neutral first in the reasons that it employs, and second in the impact upon citizens living within a liberal-democratic state that would flow from it.[26] It

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[24] Ibid., p27. While '[r]easonable people may disagree about the nature of the good life' ... they can nevertheless 'be expected to agree on the framework that makes it possible to pursue their own conception of the good unimpeded by others'. (p29) The Right is understood here to be prior to the Good in two ways: first, the liberal right takes precedence when it comes into conflict with the claims of a particular conception of the good; second, the (liberal) right is defined so as not to bias it in favour or any particular conception of the good (p30).

[25] Ibid., p26. Rawls' universalism is evident in his characterisation of the source of authority of the 'Original Position' in the concluding pages of *A Theory*. He claims here that this hypothetical situation models those conditions which 'we' .. 'on due reflection' … 'recognize as reasonable'. It is evident that 'we' pertains to all 'rational' persons, where 'rationality' is presumably presupposed to constitute a universal potentiality. 'The perspective of eternity is not a perspective from a certain place beyond the world, nor the point of view of a transcendent being; rather it is a certain form of thought and feeling that rational persons can adopt within the world.' Rawls, *A Theory of Justice*, p587.

[26] The first objection is that liberal neutrality *itself* stands for a bundle of values – it clears a space for people(s) to pursue their own conceptions of the good, promoting 'toleration

has consequently been widely conceded that liberalism can neither be wholly neutral in impact or reasons. With the communitarians, it must be acknowledged that 'any political system must rest in the end on some conception of the good', and that liberalism can not be limitlessly accommodating. It nevertheless might be argued that liberalism can still be defended as providing a political order which is as neutral as possible, or at least that is more neutral, more capacious and inclusive of different ways of living than other alternatives.[27]

Particularist Neutrality: Rawls' Response to Criticisms of Liberal Universalism

Another response to criticisms of claims to liberal neutrality, is to retain commitment to 'neutrality of reasons', but abandon claim to the universal scope of the authority of liberal principles. As we have seen above, this is the justificatory strategy Rawls employs in his later 'political' version of justice as fairness. Here he retains his anti-perfectionist defense of liberalism, but contextualises the scope of its application and source of its authority, arguing that it constitutes a political rather than metaphysical defense that appeals to liberal values that are implicit within the shared public culture of liberal

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rather than orthodoxy, freedom rather than solidarity, diversity rather than community, debate rather than agreement, experiment rather than tradition'. The second 'differential impact' objection maintains that upholding the liberal principles will not affect all ways of life equally; 'those conceptions of the good that do not share the core liberal commitments' ... 'will be restricted, will have less room in which to flourish, than those ways of life that lie closer to a liberal outlook'. Crowder, *Liberalism and Value Pluralism*, pp30-31.

[27] Ibid., pp42-43. John Kekes presents this as a position (without endorsing it) which aspires to have a state which takes no sides about the respective merits of moral traditions and conceptions of the good existing under its jurisdiction. At the same time this position acknowledges that some of these traditions and conceptions of the good will have to be curtailed to sustain a political system which enables 'as many moral traditions and conceptions of a good life as possible to compete with one other for resources and for the allegiance of the people'. John Kekes, *Against Liberalism* Cornell University Press, New York, 1997, p175. This pluralist position is defended by Charles Larmore. See Larmore, 'Pluralism and Reasonable Disagreement', pp152-174.

constitutional states.[28] This limited view of liberal justification is confined to the political cultural of particular kinds of 'democratic' states – such as United States and Britain.[29]

We have seen that this political form of justification has been criticised for appealing to an 'insider's' form of reasoning which falls to charges of arbitrariness. Rawls' political turn is also criticised for shifting away from making any truth or metaphysical claims and characterising itself as merely providing a practical solution to a political problem.[30] By tying justification to the values implicit within a public, political culture of liberal-democratic states, (such as United States and Britain) this project seems to also fail to

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[28] This revision is defended as a response first, to the 'fact of reasonable pluralism' and second, to the liberal state's commitment to 'public justification'. Rawls presents these public sphere values as legitimated by an 'overlapping consensus'. These values can be reached through any reasonable comprehensive moral doctrine, but because they are ideas implicit to the shared *public* culture, and are not peculiar to any particular comprehensive doctrine, they can be viewed as 'freestanding' or neutral with respect to competing conceptions of the good. Crowder, *Liberalism and Value Pluralism*, p33. Here Rawls argues that 'conditions for justifying a conception of justice' hold only there exists a public culture in which 'a basis is established for political reasoning and understanding within a public culture'. Rawls, 'Kantian Constructivism in Moral Theory', p517.

[29] Here Rawls maintains that the aim of political philosophy 'is to articulate and to make explicit those shared notions and principles thought to be already latent in common sense' or if common sense is hesitant and uncertain and doesn't know what to think (as is often the case), to propose to it certain conceptions and principles congenial to its most essential convictions and historical traditions. Rawls, 'Kantian Constructivism in Moral Theory', p518.

[30] As Rawls writes '… the practical problem is primary. .. What justifies a conception of justice is not its being true to an order antecedent to and given to us… Kantian constructivism holds that moral objectivity is to be understood in terms of a suitably constructed point of view that all can accept'. Ibid. p519. . 'Rather than think of the principles of justice as true, it is better to say that they are principles most reasonable for us, given our conception of persons as free and equal, and fully cooperating members of a democratic society.' (p554) Rawls also maintains that in constructivism 'it is better to state that first principles are reasonable rather than that they are true or false - or better, "that they are most reasonable for those who conceive of their person as it is represented in the procedure of construction (p569)"'.

contribute to liberalism's traditional emancipatory project: the limited epistemic status and limited scope of the authority of Rawls' particularist revision deprives liberalism of the critical teeth with which to engage with non-liberal societies. [31]

At the same time, however, in spite of Rawls' retreat from universalist claims to the cosmopolitan scope of the authority of his principles of justice, his political liberalism still fails to stand as a neutral defense, and represents liberalism as a substantive conception of the good in competition with others. First, Rawls' public-sphere liberalism presupposes that people can separate their public identity from their private, and when the two come into conflict, give priority to the former.[32] Second, and as I have argued above, this public conception of the self presupposes and hence privileges capacity for discursive reason. [33] In sum, this conception demands too much commonality, and at the price of diversity, to stand as an account of justice which is as neutral or capacious as possible.

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[31] See William A. Galston, 'Pluralism and Social Unity', *Ethics*, 99 (July), 1989, pp725-726; Hampton, 'Should Political Philosophy Be Done without Metaphysics?' pp807-814. Hampton argues that while one may not respect another's ideas, one can show respect for him as a person by seeking to win him over not by coercion but by appeal to the truth' (p811). I shall argue below that an account of autonomy as the commonality which must be assumed in order to realise transcultural justice *must* employ a metaphysical framework which admits the transcendent and hence can make substantive claims to 'truth'.

[32] See Galston, 'Pluralism and Social Unity', p718. Galston notes that 'in the end' Rawls concedes that the priority of the public is always provisional. Rawls writes: 'Political good, no matter how important, can never in general outweigh the transcendent values - certain religious, philosophical and moral values – that may possibly come into conflict with it.' John Rawls, 'The Priority of Right and Ideas of the Good', *Philosophy and Public Affairs*, 17, 1988, p254. Further, he concedes that from the standpoint of stability the best that can be hoped for is that the overwhelming majority of people find sufficient space within liberal society for the expression of their distinctive conceptions of the good. But as Galston writes 'for those who are left out, it is hard to see how liberalism can be experienced as anything other than an assault' (p718).

[33] It is notable that Rawls sees that the moral view embodied in the liberal, public, political culture has a strong educative role to play. Rawls, 'Kantian Constructivism in Moral Theory', p553.

Perfectionist Justifications: Universalist and Particularist

Acknowledging the force of the critique of liberal neutrality that liberalism does rest on a conception of the good, perfectionists embrace this critique and argue that 'the liberal theory of the good is valid and superior to the alternatives'. Universalist perfectionists argue that the 'liberal good is superior universally', particularists that 'it is appropriate within a particular cultural and historical context'.[34]

Predictably, universalist perfectionist justifications have been criticised by those committed to liberal neutrality for providing justification that is too 'narrow, exclusive and controversial'. The problem here is not merely that people fail to embrace this conception of the good. A stronger neutralist objection to the perfectionist position is that 'disagreement about conceptions of the good is reasonable'. As Charles Larmore writes:

> Over the past four centuries [since the Reformation], the nature of the good life in a great many of its aspects has come to seem a topic on which disagreement among reasonable people is not accidental, but to be expected. Being reasonable – that is, thinking and conversing in good faith, and applying, as best one can, the general capacities of reason that belong to every domain of inquiry – has ceased to seem a guarantee of unanimity. On these matters of supreme importance, the more we talk with one another, the more we disagree.[35]

The perfectionists' reply to the criticism of narrowness is that a great deal of diversity can be accommodated within a liberal ideal of the good. William Galston for example has developed a highly capacious conception of the liberal good, identifying this with various generic values: 'normal development of basic human capacities, fulfilment of interests and purposes,

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[34] Crowder, *Liberalism and Value Pluralism*, p35.

[35] Ibid., pp36-37; Larmore, *The Morals of Modernity*, p122.

freedom, rationality, society subjective satisfaction'.[36] Galston argues that this leaves a great deal of room for human diversity which falls within the bounds of a reasonable, liberal conception of the good. This diversity, however, precludes state promotion of the liberal ideal of personal autonomy or invoking it as a general rule of public action as 'autonomy-based arguments are bound to marginalize those individuals and groups who cannot conscientiously embrace the Enlightenment Project' (ie 'the experience of liberation through reason from externally imposed authority'). This 'project' views reason as the prime source of authority and the examined life as superior to reliance on tradition or faith.[37]

The broadening of universalist perfectionism to accommodate such a diversity of ways of life is subject to criticism on two fronts however: on the one hand it is criticised for proposing 'an account of the good that is too thin to support liberalism and rule out its rivals' and on the other, that it is 'too thick to do justice to the diversity of legitimate ways of life'.[38]

Particularist Perfectionism

The particularist alternative to this capacious, yet universalist response to criticisms that liberal conceptions of the good are too narrow, is to retain the traditional liberal commitment to personal autonomy, but to limit the scope of its application: to argue that this conception of the good is valid, and objectively good, but only for certain kinds of society. Joseph Raz for example justifies liberalism by arguing that liberal political order sustains a

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[36] Crowder, *Liberalism and Value Pluralism*, p37; see Galston, *Liberal Purposes: Goods, Virtues and Diversity in the Liberal State*, pp173 -177. See also Martha Nussbaum's conception of human rights which rests on a 'thick', yet 'vague' (ie capacious) account of the good. This consists of an account of the basic human conditions that must be met for a good life, and the basic 'functional capabilities' needed to realise the good. Nussbaum, 'Human Functioning and Social Justice, in Defence of Aristotelian Essentialism', pp216-223.

[37] Galston, 'Two Concepts of Liberalism', p526.

[38] Crowder, *Liberalism and Value Pluralism*, p37.

particular form of human well-being based on (liberal) personal autonomy, in certain contexts. He argues that personal autonomy is a social and political value applicable to modern industrial societies only. He nevertheless insists that this does not reduce autonomy to merely culturally-relative good. What counts as well-being is an objective question, and the kind of political form which promotes well-being varies according to context: a conception of well-being based on personal autonomy is conducive to well-being for those who live subject to the kinds of conditions which characterise modern industrial societies.[39]

Raz's particularist perfectionism can be criticised for simply *assuming* that autonomy is the 'only rational response to conditions of social and economic fluidity'. Raz seems to make the empiricist, positivist assumption that the socio-political order needed to foster well-being can simply be 'read off' or deduced from a study of the prevailing social, economic and cultural conditions, effacing responsibility for judging first, the desirability of the given socio-cultural conditions, and second, whether promoting the value of autonomy is the best way to promote well-being, given such conditions.[40]

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[39] Ibid., pp38,39. See Joseph Raz, *The Morality of Freedom* Clarendon Press, Oxford, 1986.

[40] Crowder, *Liberalism and Value Pluralism*, p39. A major merit of Raz's position is that while he acknowledges the diversity of ways of life and conceptions of the good that contribute to human well-being, he nevertheless avoids retreating into a culturally-relativist position by tying his defense of liberal autonomy to a substantive, universalist conception of human well-being. Raz's theory presupposes conceptions of 'good reasons' and 'reasonable action' which are epistemologically separate from practices and discourses of a given social order. In so doing he can make a distinction between good and bad lives that is 'an epistemologically stable, sound and secure one, a distinction based upon a non-contingent Reason'. However, in appealing to a sovereign Reason to authorise the line between what can be included and excluded in the good, Raz endorses a conception of reason which negates individual responsibility for judging between conceptions of the good, and fails to address historicist insights which point to the diversity of forms of rationality, and problematises such appeals. For strident critique of Raz's strategy see Neal, *Liberalism and Its Discontents*, pp156-157.

Further, as was the case within Rawls' particularist revisions, Raz's particularist justification constitutes a major retreat from the classic universalist liberal vision. John Kekes writes that a relativised defense such as Raz's

> would deprive liberalism of one of its most powerful features namely, the moral vision that is capable of appealing to people living in widely different moral traditions and according to widely different conceptions of a good life. The vision is supposed to capture values that all moral traditions and all conceptions of a good life should aim to protect and foster. But if liberalism is relativized to the present context, it cannot sustain that vision.[41]

Core Commitments Within Contemporary 'Dignity' Debates

I identify three core commitments held within the four justificatory approaches outlined above.

First, within all four there remains strong, if implicit commitment to promoting or defending some understanding of the core liberal value of autonomy. While the particularist justifications may have, however reluctantly, abandoned the traditional liberal emancipatory project at least beyond the borders of the liberal state, the particularist justifications of Rawls and Raz are still clearly committed to defending these values. Here I am employing the term 'autonomy' broadly, to embrace not only autonomy in the Kantian, 'Enlightenment Project' sense of self-legislation in the light of reason, but also autonomy as self-determination: what Kukathas calls 'liberty of conscience' – freedom to (be left to) live by moral and religious commitments that are so deeply held that they cannot be discarded.[42] I am

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[41] Crowder, *Liberalism and Value Pluralism*, p40 quoting Kekes, *Against Liberalism*, p174.

[42] Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, pp50-51. Kukathas argues that this includes respecting those commitments which 'may be beyond deliberation or rational justification' such as, for Muslims, the prohibition on any depiction of God, or for Australian Aboriginal peoples, the prohibition of Aboriginal women from

also suggesting that while Galston argues that the best form of liberalism will not seek to promote the liberal value of autonomy, he nevertheless implicitly defends a conception of autonomy when he defends 'expressive liberty'– the absence of constraints to living in ways that express our deepest beliefs about what gives meaning of value to life (presenting this as 'a concept that can be brought to bear on the adjudication of disputes between state power and associational freedom').[43]

A second major commitment, more or less explicit within all four forms of liberal justification, is to the value and authority of reason. Again, definition of reason is clearly subject to debate within liberal thought.[44] However, I am suggesting that defined most broadly, as representing for liberals the alternative to resolving conflict through force or coercion, a core liberal commitment is to the value of reason.

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viewing ceremonies reserved for Aboriginal men. Kukathas also argues that respecting liberty of conscience requires freedom of association as it requires letting people dis-associate from those with whom they could not, in good conscience, associate. (p115). Larmore makes a similar point when he argues that we often have good reason to believe more than what reasonable agreement with others can secure, and that often what we can reasonably hold to be true appeals to our background beliefs, which generally involves 'rather complex and divergent structures of purposes, significances and activities' Larmore, 'Pluralism and Reasonable Disagreement', pp172-173 See Galston, 'Two Concepts of Liberalism', pp524-527 for Galston's argument against state promotion of the 'Enlightenment Project'.

[43] Galston, 'Expressive Liberty, Moral Pluralism, Political Pluralism: Three Sources of Liberal Theory', p3.

[44] Kukathas' extremely capacious conception of liberalism, which, as noted above, draws on O'Neill's reading of Kant for its justification, suggests that peaceful coexistence between non-liberal minority groups within the public, social realm constitute 'disputes in the realm of reason'. He argues that the fact that the different ways of life of Amish and Hutterites for example are not articulated, and the absence of dialogue between minority and majority groups, does not negate the fact that lives which exemplify different possibilities are present and hence 'alternative views are in the public realm'. Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, pp128-129.

Third, traditional liberal commitment to accommodation is also clearly evident in at least three of the four approaches considered: it is central to Rawls' two neutralist justifications, and a strong feature of Galston's highly capacious liberal perfectionism; Raz's perfectionist defence, while not specifically addressed to the problem of accommodation, nevertheless does limit the scope of the application of liberal values in recognition of the diversity of existent socio-economic contexts.

I seek to address all three liberal commitments: to defending a liberal conception of autonomy, to the authority of reason, and to the accommodation of diversity. Within the present project, however, these commitments must be addressed in a manner which not only responds to critical debates within liberal thought, but also in a way that can be reconciled with the Difference commitments identified below.

First, in response to the liberal debates concerning liberal accommodationism, it must be conceded (with the perfectionists) that liberalism can not be 'limitlessly accommodating'. Associated with this point it must be recognised that a normative political theory can not be constructed without at least implicitly presupposing, if not affirming, some conception of the good. Consequently, and in the light of Galston, Nussbaum and other theorists' highly capacious accounts of the good, I argue that the proposed theory must employ a conception of the good which is maximally accommodating or inclusive, in part by resting on minimally-determinate assumptions about human commonality. Further, for the proposed theory to address the liberal commitment to autonomy, there must be justification for identifying this conception of human commonality and the good with liberal autonomy.

Second, it must be conceded that any philosophical defence of moral or political ideals will appeal to the authority of reason, *discursive* standards of reason in particular. However, within a maximally-capacious account of autonomy, defended as the commonality needed to realise trans-cultural justice, a distinction needs to be made between first, the (more determinate, discursive) form of reason to which appeal is made to defend the account, and second, the form of reason or human commonality that must be assumed to account for the possibility of moral order, given (a contemporary understanding of) plurality. This is a distinction, I argued above, which is at

least suggested within Kant, who stipulates that his highly technical, philosophical defence of his moral theory is addressed to philosophers, but which tends to get lost within justificatory approaches based on the social-contract model (to the extent that these theories are, at least notionally, addressed to the population under the jurisdiction of the constitutional form in question).[45] I argued that to the extent that reason's authority rests on its standing as the commonality which must be assumed to account for the possibility of moral order, given plurality, a more generic account of reason than its merely discursive form is required.

Third, if only because the emancipatory impetus within liberalism is clearly not going to lie down quietly (and I leave to one side at this point, debate about about whether it ought) a maximally-capacious account of autonomy which responds most adequately to contemporary debates within the Dignity stream must first, as noted above, find grounds for identifying it as a liberal ideal, and second, demonstrate commitment to promoting this ideal – but in a way that is as respectful of socio-cultural diversity as possible. I defend the proposed conception of autonomy as a liberal conception, partly by demonstrating that it is an extension of Kant's thought on autonomy. However, a means must be found with which to defend this ideal while as far as possible respecting the great diversity of conceptions of the good.

In the following I propose a justificatory strategy which first, assumes minimal human commonality (ie deemed requisite to realise a conception of justice which responds to both sides of contemporary debates). Second, the account also employs an epistemological framework which makes it possible to delineate and defend a *substantive* account of human commonality which can claim, with good justification, to pertain to what is the case, universally. However, at the same time, this substantive, 'true' account of human commonality employs a pluralist epistemological framework which, in

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[45] See Galston, 'Expressive Liberty, Moral Pluralism, Political Pluralism: Three Sources of Liberal Theory', pp6-7.

contrast to traditional, philosophical monological epistemological frameworks, does not imply that because it is a 'true' account, it ought also be the object of (universal) agreement or consent. Further, I address the liberal emancipatory commitment by employing an epistemological and ontological framework which views the construction of the political theory itself as a project which itself directly contributes to the promotion of the ideal of autonomy defended within it.

Responding to the Liberal 'Impasse'

The four approaches to liberal justification considered above all have, from the point of view upholding liberal commitments to accommodation as well as to the liberal value of personal autonomy, strengths as well as major weaknesses.[46] It seems that both sets of liberal commitments can not be adequately addressed within a single theory. I have argued that the most persuasive approaches seek to be as capacious as possible, while acknowledging that they must still (either willingly or with regret) privilege liberal conceptions of the good. However, the strategies employed so far to do so have tended to water down the content and status of the theories to a point that they lose critical bite and emancipatory impetus, while at the same time remaining vulnerable to charges of cultural bias. As Kukathas argues, by articulating conceptions of justice which can command widespread consent, and to avoid running the risk of having a theory which commands the loyalty of only a small subset of its audience, liberal theories which have

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[46] Crowder succinctly captures the so-called 'impasse' within these debates: 'On the question of universalism versus particularism, universalist approaches are strong in their fidelity to the liberal tradition of emancipation, but look vulnerable to accusations of cultural bias. The relative modesty of the particularist responses on the other hand, seems to draw liberalism's critical teeth. When it comes to the issue of perfectionism versus neutrality, perfectionism, like universality, answers to the emancipatory side of the historic liberal project, but appears to be baulked by reasonable disagreement. Neutrality takes reasonable disagreement and cultural diversity seriously, but seemingly at the cost of producing an insipid liberalism that dares not speak its name, and an evasive liberalism that tries to conceal the fact that, like any political view, it depends on a foundational conception of the good.' Crowder, *Liberalism and Value Pluralism*, p41.

followed Rawls have had to strip the conception of justice of much of its substantive content, to the point that they threaten to cease to be theories of justice at all.[47]

Whether characterised as a tension between emancipatory commitments and cultural diversity, or between a need for a universal reason and respect for a plurality of forms of rationality, in each case these tensions can be viewed as an expression of the problem of reconciling liberal commitments to affirming human commonality, with accommodationist commitments.

My response to these tensions is to appeal again to O'Neill's constructivist reading of Kant's vindication of reason, and view the problem of *egalitarian* moral order as *itself* precisely one of reconciling commitment to human plurality with the need to ground this order in human commonality. That is, the very problem of achieving an egalitarian form of moral order (ie as distinct from other, hierarchical forms) is one of reconciling human plurality with commonality, so as to avoid this order being implicated in violence and coercion. Following on from this, given human plurality, the only alternative to employing either coercive measures or violence to achieve moral order, is to affirm (some form of) human autonomy. That is, at minimum, some notion of individual responsibility, as well as capacity to exercise those critical faculties needed to overcome at least those prejudices which block the possibility of respectful communication with different others (a necessary, but not sufficient pre-requisite for the possibility of un-coerced resolution of conflict between different others).

This is to defend autonomy not on the universalist, perfectionist grounds that it is the best possible conception of the good, but rather that it must be presupposed if egalitarian moral order is to be realised. And here egalitarian moral order is defended, again, not on the grounds that it is the best possible form of social order, but rather that it is of particular relevance given the

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[47] Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, p6.

contemporary context of radical pluralism and global interdependence, a context in which no pre-existing, determinate commonality sufficient for the realisation of alternative forms of moral order within the public, political domain, can be simply assumed.

Having identified the core Dignity commitments (to accommodation, to reason and to the promotion of a liberal ideal of autonomy) which must be addressed within the proposed account, and provided some indication as to how I propose to go about addressing them, I turn now to the core commitments concerning respect and justice within the Difference perspective (stream or approach), and the epistemological problems which arise from these commitments for normative political thought.

The Critical Project of the Difference Perspective

I characterise the Difference approach to political thought as strongly informed by the critical movement identified most famously by Jean Francois Lyotard with an 'incredulity towards metanarratives'.[48] This movement has been described in broad terms as '[a] resistant state of mind shared by intellectuals and ordinary people alike who feel dominated by, and work to combat, the way modern metanarratives represent reality'. It builds on the critiques of modernist, Enlightenment ideals undertaken in the late 1940's by Martin Heidegger and critical theorists Max Horkheimer and Theodor Adorno. It embraces: the 1960's and 1970's feminist attack on the metanarratives surrounding relations between men and women, the critical scrutiny to which distributive theories of justice have been subject, critiques of modernisation and rationalisation within Foucault's analysis of

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[48] Jean Francois Lyotard, *The Postmodern Condition: A Report on Knowledge*, trans. G Bennington and B Massumi, University of Minnesota, Minneapolis, 1984, pxxiv. Lyotard specifies that he uses the term 'modern' to designate any science – 'such as philosophy' - that legitimates itself with reference to a metadiscourse and makes 'explicit appeal to some grand narrative, such as the dialectics of Spirit, the hermeneutics of meaning, the emancipation of the rational or working subject, or the creation of wealth'. (pxxiii)

'normalisation', Habermas' analysis of 'the colonization of the Lifeworld', and Lyotard's critiques of the logic of 'performativity'. [49]

I identify the Difference stream of thought most strongly with the work of two leading post-structuralist/post-modernist thinkers, Michel Foucault and Jacques Derrida.[50] Both Foucault and Derrida expose the misfit between dominant normative identities which appear as fixed, certain or established, and that which is excluded, silenced, or marginalised through these identities. The work of both theorists has been well described as committed to a project of 'incit[ing] the experience of discord or discrepancy between the social construction of self, truth and rationality and that which does not fit neatly within their folds'.[51]

Foucault's principle strategies are to engage in both critical and genealogical analyses of the discursive practices - the rules, systems and procedures – which constitute and are constituted by our 'will to knowledge'. He identifies the 'order of disourse' with a discrete realm of discursive practices. These delimit fields of objects, define a 'legitimate perspective of the agent of knowledge' and fix the 'norms for the elaboration of concepts and theories'. Foucault shows that the conceptual terrain of disourse can make it virtually impossible to think outside of the catagories discursive practices provide; to attempt to do so is, by definition, to be mad, beyond comprehension and therefore reason.[52]

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[49] White *Political Theory and Postmodernism*, pp4-6.

[50] Here I follow White who argues that the themes that emerge from the post-structuralism of Foucault and Derrida 'suffuse much of postmodern thinking' – orienting its modes of analysis, determining its topics and embedding within it certain persistent difficulties. Ibid., p19.

[51] William Connolly, 'Michel Foucault: An Exchange: 1. Taylor, Foucault, and Otherness', *Political Theory*, 13.3 (August), 1985, p368.

[52] Michel Foucault, *Language, Counter-Memory, Practice*, trans. Donald Bouchard, Cornell University Press, New York, 1977, p199; Michel Foucault, 'The Order of Discourse', *Untying the Text*, ed. Robert Young, Routledge & Kegan Paul, Boston, 1981, p48. Foucault

Foucault's projects are designed to move us to '*listen* to a different claim' rather than to accept the findings of an argument. As Connolly observes

> Genealogy is not a claim to truth (although it functions in an episteme in which established theories of truth are called into question); it exercises a claim upon the self that unsettles the urge to give hegemony to the will to truth. [53]

In *Margins of Philosophy*, Derrida seeks to separate from philosophy 'in order to describe and decry its law, in the direction of the absolute exteriority of another place'. Derrida reflects, however, that as philosophy has always insisted on 'thinking its other', - 'that which limits it, and from which it derives its essence, its definition, its production', it may not be possible to *think* the other of philosophy:

> …in thinking it *as such*, in recognizing it, one misses it. One reappropriates it for oneself, one disposes of it, one misses it, or rather one misses (the) missing (of) it.[54]

He suggests that rather than, in the manner of philosophy, determining 'some other circumscription, recognising it, practicing it, bringing it to light, forming it, in a word *producing* it', in question in his project will be an other 'which is no longer' the other of philosophy - and 'according to a movement unheard of by philosophy'. His own 'conceptual elaboration' must introduce

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specifies that *critical* analysis puts into practice the 'principle of reversal', seeking to grasp the forms of exclusion, limitation and appropriation discourse perpetuates. It seeks to show *how* instances of discursive control are formed, modified and displaced; to identify the constraints they exert and to what extent these have been evaded. Genealogical analysis considers the specific forms discursive systems have taken and do take, identifying how they came to be formed, the norm specific to each, their conditions of appearance, growth and variation. Foucault, 'The Order of Discourse', pp70-71.

[53] Connolly, 'Michel Foucault: An Exchange: 1. Taylor, Foucault, and Otherness', p368.

[54] Jacques Derrida, *Margins of Philosophy*, trans. Alan Bass, Harvester Press, Brighton, 1982, pxi.

into 'the unthought, the suppressed, the repressed of philosophy', that which resists philosophy, 'a new play of opposition, of articulation, of *difference*'.[55]

Stephen White argues that both Foucault's and Derrida's projects exhibit a 'strong sense of responsibility to expose and track the way our modern cognitive machinery operates to deny the ineradicability of dissonance'. This 'cognitive machinery' (or what is also referred to as the workings of the 'logic of identity') is the legacy of modern conceptions of the subject conceived of as 'an isolated mind and will', 'his vocation is to get clear about the world, to bring it under the control of reason and thus make it available for human projects'.[56] For postmodern theorists generally, the 'harmony, unity, and clarity' promised by the modernist cognitive machinery have an inevitable cost: that which is excluded through this rationalisation process is always 'engendered, devalued, disciplined' and identified as Other.[57]

I am identifying the Difference perspective, then, with a core commitment to expose and destabilise dominant, modernist, normative ideals, so that that which is covered over, hidden, marginalised or silenced can appear. In contrast to the modernist, 'Dignity' theoretical projects, which define and defend normative ideals of the autonomous subject, the Difference perspective sees the subject as an artificial reality imposed on material not designed to receive it. It seeks to defend especially 'that which is defined by the normalized subject as otherness, as deviating from or falling below or failing to live up to the standards of subjectivity'.[58]

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[55] Ibid., ppx-xxviii.

[56] White *Political Theory and Postmodernism*, p20.

[57] Ibid. . Following Connolly, White argues that Foucault and others who employ strategies of deconstruction provide an 'ontology of discord' showing how the Other is always pushed aside, marginalised, forcibly homogenised, and exposing the cognitive machinery of western politics, philosophy and psychology (pp18-19).

[58] Connolly, 'Michel Foucault: An Exchange: 1. Taylor, Foucault, and Otherness', p371. Here the object of power is not understood to be the subject or agent, but rather 'that in selves

However, and in spite the Difference perspective's commitment to that which falls outside of normative ideals of subjectivity, and its wariness towards idealisations of subjectivity, it nevertheless remains that from a *modernist* perspective, this is a project which expresses an implicit emancipatory commitment; further, and following on from this, from the point of view of the inherited notions of subjectivity, rationality, and 'the logic of western thought', this project seeks to promote what the liberal, Rawlsian stream orefers to as a particular, albeit highly capacious and abstract 'conception of the good'.

The Authentic, Culturally-embedded Subject

Again, and I must stress, from a modernist point of view as distinct from the explicit self-characterisations of theorists identified with the Difference stream of thought, we can follow Charles Taylor's account of the 'politics of recognition' and characterise the Difference perspective as informed by an ideal of the subject or self-hood which has emerged out of, and as a counter-movement away from the Enlightenment, liberal ideal of the autonomous self. In the eyes of its critics, and as is reflected in Kant's moral theory, this is an ideal of the self as free from particular commitments and partialities which threaten impartial judgment. In contrast, the ideal which informs the Difference perspective (albeit only implicitly) identifies the self as unique and authentic.[59]

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which resists agentification'. Freedom on this perspective is not reducible to freedom of subjects, but is at least partly understood to be the release of that which does not fit into the moulds of subjectification and normalisation.

[59] This ideal of the self is reflected in the notion 'that [t]here is a certain way of being human that is *my* way', an original way 'that only I can articulate and discover'. Taylor argues that philosophically, the ideal of an individualised, authentic or unique identity can be traced to Herder who is noted for writing that we each have our 'measure'. Historically this ideal emerged as definition of one's identity in terms of social position and associated roles and activities declined. Taylor associates attribution of moral value to the individualised human being with the 'massive subjective turn of modern culture' away

The Difference stream of political thought is also informed by the notion that selfhood is realised through relationship, engagement or dialogue with others.[60] Within contemporary, liberal political theory, this relational aspect of identity has been brought to prominence through communitarian critique of the Neo-Kantian model of the moral identity, a view often associated with Michael Sandel's critique of Rawls' insistence on the 'separateness of persons'. Sandel characterises the Rawlsian view of the self as a 'choosing self, independent of the desires and ends it may have at any moment', a 'separate' self who is free and independent, 'always capable of standing back to survey and assess and to possibly revise' his or her 'aims and attachments'. Sandel objects to this view arguing that '... we cannot conceive ourselves as independent ... bearers of selves wholly detached from our aims and attachments' and that some of our social roles are constitutive of the persons we are – as citizens of a country, or members of a movement, or

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from a moral orientation to God or the (Platonic) Idea of the Good, and towards a reliance on connection with 'a source that is deep within us'. He notes that Rousseau contributes much to this idea, often exhorting us to follow the 'voice of nature within us' and expressing the view that 'our moral salvation comes from recovering authentic moral contact with ourselves'. The name Rousseau gave a name to this 'intimate contact with oneself', is "le sentiment de l'existence". Taylor quoting Jean-Jacques Rousseau, 'Les Reveries Du Promeneur Solitaire', *Oeuvres Completes*, vol. 1 Gallimard, Paris, 1959, p1047. Taylor notes that Mill's *On Liberty* also contributed to the ideal of an authentic self. Taylor, 'The Politics of Recognition', pp29-31.

[60] Taylor distinguishes here between a *monological* view of selfhood associated with Neo-Kantian thought and a *dialogical* view. He suggests that the latter can be understood as a counter-balance to the ideal of the inwardly generated authentic self. See Taylor, *Sources of the Self: The Making of the Modern Identity*, p32. Hegel is a key philosophical source for the relational view that relationship and recognition is vital to self-hood: 'self-consciousness exists in and for itself when, and by the fact that, it so exists for another; that is, it exists only in being acknowledged'. Porter, *Women and Moral Identity*, p111, quoting Georg W.F. Hegel, *Phenomenology of the Spirit*, trans. A.V. Miller Clarendon Press, Oxford, 1979, p111.

partisans of a cause.[61] In contrast to Rawls' liberal, autonomous self, Sandel's 'communitarian' self is at least in part constituted by his or her ends:[62]

> ... the story of my life is always embedded in the story of those communities from which I derive my identity – whether family or city, tribe or nation, party or cause. ... [these stories] situate us in the world and give our lives their moral particularity.[63]

Political thought more strongly informed by the post-structuralist critique of Identity/Difference has also viewed *relationship* as integral to identity. For example Young's work is informed by Lacanian psychoanalysis which conceives of the self as always 'contextualized in concrete relations' with the mixed identities of other persons; selfhood is 'an achievement of linguistic positioning', the product of social processes rather than the source or origin of these processes.[64] Similarly, within Habermas' theory of communicative action, the individual identity is conceived as a product of linguistic and practical interaction.[65]

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[61] Sandel, Michael, 'Morality and the Liberal Ideal' in Shaw, W. & Arthur, J.eds. *Justice and Economic Distribution*, Prentice Hall, Englewood Cliffs, 1991, p 248.

[62] Michael Sandel, 'Morality and the Liberal Ideal', *Liberalism and Community*, pp248, 247.

[63] Sandel, 'The Procedural Republic and the Unencumbered Self', p248. See also Young, *Justice and the Politics of Difference*, p228; Chantal Mouffe, 'American Liberalism and Its Critics: Rawls, Taylor, Sandel and Walzer', *Praxis International,* 8.2 (July), 1988, pp193-200.

[64] Young, *Justice and the Politics of Difference*, p45.

[65] Stephen Epstein describes the Habermasian identity as 'a socialized sense of individuality, an internal organization of self-perception concerning one's relationship to social categories, that also incorporates views of the self perceived to be held by others. Identity is constituted relationally, through involvement with – and incorporation of – significant others and integration into communities.' Ibid. , quoting Stephen Epstein, 'Gay Politics, Ethnic Identity: The Limits of Social Constructionism.''', *Socialist Review,* 17 (May-August), 1987, p29. Habermas is drawing here on George Herbert Mead's social psychology according to which 'the child develops its identity by becoming qualified to participate in normatively guided actions'. Jurgen Habermas, *The Theory of Communicative Action, Volume Two*, trans. Thomas McCarthy, Beacon Press, Boston, Massachusetts, 1987, p28. See also pp3 – 42.

While commitment to the promotion of the realisation of an ideal of an authentic self is integral to, if generally only implicit within, the general Difference perspective, this commitment comes into serious conflict with what is arguably its core commitment: to challenge, contest, destabilise, subvert and deconstruct normative values, so as to allow difference, that which is obscured by dominant normative ideals (particularly of subjectivity and the good) to appear.[66]

A theory of autonomy which addresses this core commitment must consequently be centrally concerned with addressing the tension between on the one hand, the Difference commitment to promoting the appearance of the Other through strategies of subversion and deconstruction, and hence implicit commitment to what the modernist might refer to as the realisation of an 'authentic self', and on the other, the explicit Difference commitment to destabilising and subverting normative ideals and traditional foundationalist theory.

I turn now to introduce what is arguably the major ontological and epistemological orientation informing this Difference project.

Heideggerian Ontology and Epistemology

The Difference stream of political thought is deeply indebted to an ontological perspective which views human beings as embedded within the world of lived, embodied, human experience.[67]

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[66] For a penetrating critique of Taylor's modernist misinterpretation of Foucault see Connolly, 'Michel Foucault: An Exchange: 1. Taylor, Foucault, and Otherness', pp365-385.

[67] It is notable that Foucault identified Heidegger and Nietzsche as the two authors who he returned to most often right up until the end of his life. Identification of Martin Heidegger's ontological framework as a major source for post-structuralist/modernist thought follows Stephen White who argues that in spite of Heidegger's indebtedness to Nietzsche, Heidegger is the 'best source to investigate the roots of postmodernity': first, Heidegger expands Nietzsche's critique of metaphysics into a critique of modernity's

This ontological view contrasts strongly with the Kantian, Enlightenment perspective which champions the subject's capacity to detach and distance himself or herself from particularities of context. As I have suggested above, the Kantian conception of the subject is strongly shaped by Kant's 'critical' project which seeks to account for the possibility of objective and universal knowledge (as well as impartial judgment). Kant consequently defines human experience as that of which we can all have (empirical) knowledge: knowledge is something that can be shared, potentially universally, and hence can stand as 'objective'. Further, as Kant's focus is on giving an objective account of human knowledge, he employs language in a way that allows one to stand apart from experience, to represent it and hence 'know' it 'objectively'.

The ontological perspective which informs the Difference approach views language and knowledge not, primordially, as something separate from us which we can employ as a tool to represent the world. Instead, we are understood to be embedded in the world, and constituted through language.

Heideggerian ontology is itself strongly informed by Edmund Husserl's phenomenology which includes the concept of 'Lifeworld'. Andre Gorz writes:

> The 'Lifeworld' (*Lebenswelt*), in Husserl's work, is primarily the sensible, three dimensional world we know through our bodies, as certainly and unmistakably as our bodies themselves. The world is ours, and we belong

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instrumental-technological orientation to the world, focusing more directly on the nature of language, and second, Heidegger radically problematises the will to power in a way that is valuable for modern thinking. At the same time, however, White exhorts us to remember both the 'heights' and 'depths' of Heidegger's thought (ie including concerns about the fascist or authoritarian quality of Heidegger's work, the inadequacy of his conceptualisation of action, inadequate comprehension of the normative tension and interconnection between actors in social and political life). White *Political Theory and Postmodernism*, pp31-33.

> to it – are part of it – through our bodies. The meaning of this relationship of mutual inherence is perpetually informed and reworked by a cultural matrix which we learn at the same time as we learn to see, walk, talk, exist in our bodies as a relation to others and to the humanized world of culture we are born into. It is nevertheless the substance of the world experienced through our bodily inherence in it which is the ground of our lived certainties, the matter which will be given shape, form, style and pattern by culture or denied by barbarism.[68]

In contrast then to Kantian ontology, which proceeds from categories of understanding and principles of reason, this phenomenological ontology is grounded in the lived experience of being human. The notion of the Lifeworld which points to this experience embraces both that network of understandings, meanings, object/subject relations which constitute the 'World' of human meaning, as well what it is to experience this world within a human body, on this planet. In fact here the two are inextricably intertwined: on this view human experience is, at its most fundamental or primordial level, not of a discrete, separate world-out-there which we employ our inherited socio-cultural forms (or what is often referred to as 'language') to represent, but rather, that in which we are embedded.[69]

As I discuss in greater detail in the following chapter, this Heideggerian ontology holds that before language is an instrument of any sort which can be employed to represent objects within the world, language is more primordially the disclosure of the world; through language we disclose what is there.

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[68] Andre Gorz, Critique of Economic Reason p85.

[69] In *Being and Time* Heidegger identifies human being with Dasein. Here 'Dasein's Being' is understood to be *a priori* grounded upon the state of being Heidegger refers to as '*Being-in-the-world*' conceived as a '*unitary* phenomenon'. Martin Heidegger, *Being and Time*, trans. John Macquarie and Edward Robinson, Harper and Row, New York, 1962, p78. The constitutent parts of this phenomenon – 'in-the-world', 'worldhood', 'the entity which has Being-in-the-world as the way in which it is' and 'Being-in' are all subject to detailed analysis in *Being and Time*.

Heidegger writes in *Being and Time* that 'Asserting is a way of Being towards the Thing itself that is'. When one perceives something and makes an assertion about it one demonstrates nothing other 'than *that* this Thing *is* the very entity which one has in mind in one's assertion'. …. What gets demonstrated is the 'Being-uncovering of the assertion'. …

> The entity itself which one has in mind shows itself *just as* it is in iself; … Representations do not get compared, either among themselves or in *relation* to the Real Thing. What is to be demonstrated is not an agreement of knowing with its object, still less of the psychical with the physical; but neither is it an agreement between 'contents of conciousnes' among themselves. … To say that an assertion "*is true*" signifies that it uncovers the entity as it is in itself. Such an assertion asserts, points out, 'lets' the entity 'be seen' .. in its uncoveredness. The *Being-true* (truth) of the assertion must be understood as *Being-uncovering*. Thus truth has by no means the structure of an agreement between knowing and the object in the sense of a likening of one entity (the subject) to another (the Object).[70]

According to this 'world-disclosing' view of language, making an assertion is viewed phenomenologically, as 'way of being towards' whatever is being put forward in the assertion. For example, the statement 'The hammer on the bench is heavy', is viewed in the first instance as an orienting of ourselves and our audience *towards* the hammer, the thing we are talking about. Here our use of language is not viewed as differing in kind from other, non-discursive ways of 'being towards', or more generally, other ways of being *in* the world. For example, saying 'the hammer on the bench is heavy' is considered a way of being in relation to the hammer, and of comporting oneself within the world, just as reaching out and picking up a hammer in

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[70] Ibid., p261. Caputo writes: 'Language for Heidegger is not a subjective representation of an object but rather Being's own taking over man in order to come to words. When man speaks he is not verbalising inner representations which correspond to outer objects, but letting things come to language in his talk.' John D. Caputo, 'The Thought of Being and the Conversation of Mankind: The Case of Heidegger and Rorty', *Hermeneutics and Praxis*, ed. Robert Hollinger, University of Notre Dame Press, Notre Dame, Indiana, 1985, p257.

order to drive in a nail, is another way of 'being towards' the hammer, and being in the world.[71]

This ontological perspective is oriented, then, towards the phenomenon or experience of being human, embedded within language and socio-cultural meanings which constitute the world. The focus is on the 'mode of comportment', the way in which we relate to the world and in so doing continually constitute and re-constitute the World, rather than, as is the case within the Dignity perspective, on the delineation and defence of subject/object oriented representations of it.

This Heideggerian ontology, which makes a distinction between human experience and the Lifeworld as constituted through language, and the use of language to represent and following on from this, to determine, define and control the constitution of 'reality', opens up a window for poststructuralist/modernists, critical theorists, feminists and others to investigate the implications of dominant representations of reality and the world for lived, human experience.

Foucault's Critique of Power/Knowledge

Reflecting the influence of this Heideggerian ontology, Foucault's critique proceeds from the view, captured well by Connolly, that 'every articulation of thought presupposes the unthought from which it draws nourishment and, conversely, that which nourishes thought must always escape full articulation'.[72] Foucault goes further, however, and argues that language and

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[71] Campbell, Truth and Historicity, p420; See also Heidegger, *Being and Time*, pp260-264. For Heidegger's discussion of the example of the hammer to illustrate the interpretive process integral to language. See Heidegger, *Being and Time*, pp199-200.

[72] Connolly, 'Michel Foucault: An Exchange: 1. Taylor, Foucault, and Otherness', p366. Saying the same thing differently, Young writes 'Difference ... names both the play of concrete events and the shifting differentiation on which signification depends. Reason,

discourse must be conceived as 'a violence which we do to things, or, in any case as a practice which we impose on them'.[73] This view points to a disjunction between lived experience and discourse captured graphically by Gorz:

> Learning one's language is a form of original violence done to lived experience; that process forces those experiences for which there are no words to remain silent, while I am forced to express meanings which do not correspond to my experience, to have intentions which are not my own. It forces me to substitute a discourse which is not my own for the one it forbids me. It is a form of discipline and censorship and induces us to inauthenticity, pretence and play-acting.[74]

For Foucault, 'knowledge' and 'discourse' are modes of power. He suggests 'that in every society the production of discourse is at once controlled, selcted, organised and redistributed by a certain number of procedures whose role is to ward off its powers and dangers, to gain mastery over its chance events, to evade its ponderious, formidable materiality'.[75] Procedures of mastery include first, social procedures of exclusion and prohibition, second, procedures of internal 'rarefecation' which exercise control (through principles such as the 'commentary', the 'author' and the 'discipline') and third, procedures determining the conditions of application – such as roles imposed on speaking subjects and restrictions of access.[76] The 'will to truth' which governs modernity is a system of mastery which excludes. It is both reinforced and renewed by whole strata of practices - including pedagogy, the system of books, libraries and publishing, through learned societies, and by the way in which knowledge is put to work, valorised and distributed. The will to truth also tends to exert a 'sort of pressure and something like a

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discourse, is always already inserted in a plural, heterogeneous world that outruns totalizing comprehension.' Young, *Justice and the Politics of Difference*, p98.

[73] Foucault, 'The Order of Discourse', p68.

[74] Gorz, *Critique of Economic Reason*, p176.

[75] Foucault, 'The Order of Discourse', p52.

[76] Ibid., pp49, 52-64

power of constraint … on other discourses'. Foucault goes as far as to suggest that 'it is as if even the word of the law could no longer be authorized, in our society, except by a discourse of truth'. For example first the penal system sought its justification in a theory of justice. However since the nineteenth century it has turned to sociological, psychological, medical and psychiatric knowledge for legitimation.[77]

For Foucault then, power is not something that can be held and wielded by some at a 'centre of power', but is a more diffuse entity produced and reproduced through on-going processes, actions and relations between people; power is viewed as 'a slowly spreading net of normalisation that invades our language, our institutions, and even (and especially) our consciousness of ourselves as subjects'. Power is not understood so much as repressing, in the purely negative sense, but rather as 'constraining' in the sense that it 'persistently channels' activity.

> One is not so much stopped from engaging on some activity as one is given directions for how it is *normally* carried out, with these directions typically being accorded some sort of scientific status. Power, in short, becomes productive of action, not just prohibitive.[78]

Identity/Difference and the Critical Project of 'Thoroughgoing Post-Structuralists'

The critique of identity/difference weds this view of power to structuralist analysis of the structure and logic of meaning. Structuralism sought to understand meaning through systems of conventions and the relationship between signs, (words being one form of sign). It held that meaning emerges within the logical workings of binary oppositions between for example 'raw/cooked, nature/ culture, man/woman, light/dark'. Derrida found that

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[77] Ibid., pp54-55

[78] White *Political Theory and Postmodernism*, p18. See also Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan, Random House, New York, 1977, pp79-81, 136-138, 208-139.

the presumption that meaning rests on foundational, unquestioned binary oppositions is characteristic not only of structuralist analysis but also of dominant currents within western 'metaphysical' thought.[79]

Derrida's and Foucault's post-structural projects of deconstruction expose a tendency toward hierarchy within these oppositions: on one side, a particular *identity* is inscribed with positive value (eg normal/reasonable/universal/logical); the other side is defined in opposition to this as other or different, abnormal or deviant. Foucault's genealogical investigations highlight the ways in which institutional practices and the normative constructs and identities perpetuated through them close off possibilities for alternative identities, difference or the Other to 'appear'.

Following Theodor Adorno, Iris Marion Young describes this project of exposing and deconstructing the logic of reason characteristic of western philosophical and theoretical discourse, a logic which 'denies and represses difference', the 'critique of the logic of identity'. This logic is characterised by the 'urge to think things together, to reduce them to unity'. Here a rational account is understood to 'find the universal, the one principle, the law, covering the phenomena to be accounted for'; reason 'seeks essence, a single formula that classifies concrete particulars as inside or outside a category, something common to all things that belong in the category'.[80] Entities tend to be conceptualised in terms of substance rather than process

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[79] See for example Jacques Derrida, *Positions* Chicago University Press, Chicago, 1981. White *Political Theory and Postmodernism*, pp14-15.

[80] Young, *Justice and the Politics of Difference*, p98. See also Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p9. 'The consolidation of identity through the constitution of difference. The self-reassurance of identity through the construction of otherness. … The definition of difference is a requirement built into the logic of identity, and the construction of otherness is a temptation that readily insinuates itself into that logic' – a temptation because it is constantly at work, though may be fended of, and 'more than a temptation as it typically moves below the threshold of conscious reflection and because every attempt to come to terms with it encounters stubborn obstacles built into the logic of identity and the structural imperatives of social organisation'.

or relations, where substance is 'the self-same entity that underlies change, that can be identified, counted, measured.' While its critics acknowledge that any conceptualisation unifies and compares the 'impressions and flux of experience', the logic of identity goes beyond ordering and comparison and constructs 'totalizing systems in which the unifying categories are themselves united under principles'. This logic 'flees from the sensuous particularity of experience'… 'seeks to generate stable categories' and denies or represses difference.[81]

> Through the logic of identity thought aims to master that sensuous heterogeneous embodiment by bringing the object fully under a concept. It thereby denies the difference between the object and the subject; it seeks a unity of the thinking subject with the object of thought, that though might grasp, comprehend the real. … [I]t seeks to bring everything under control, to eliminate uncertainty and unpredictability, to spiritualize the bodily fact of sensuous immersion in the world that out-runs the subject, to eliminate otherness.[82]

I am characterising the Difference perspective then, as first and foremost a critical perspective which seeks to dislodge the hold that normative

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[81] Young, *Justice and the Politics of Difference*, p98.

[82] Ibid., pp98-99. Young argues that since each particular entity or situation has both similarities and differences with other particular entities or situations, being neither absolutely other nor completely identical, the 'urge to bring them to unity under a category or principle necessarily entails expelling some of the properties of the entities or situations. Because the totalizing movement always leaves a remainder, the project of reducing particulars to a unity must fail. Not satisfied then to admit defeat in the face of difference, the logic of identity shoves difference into dichotomous hierarchical oppositions: essence/accident, good/bad, normal/deviant'(p99). Under the logic of identity 'rational thought is defined as infallible vision – only what is seen clearly is real, and to see it clearly makes it real' – one sees with the mind's eye, 'a vision standing outside all'. The subject seeks to know truth 'as a pure signifier that completely and accurately mirrors reality. The 'gaze of modern scientific reason' is also, as Foucault found, a 'normalizing gaze' assessing the object according to some hierarchical standard. Foucault identifies five operations of this normalising gaze: comparison, differentiation, hierarchisation, homogenisation, and exclusion. Young, *Justice and the Politics of Difference*, pp125-126. See Foucault, *Discipline and Punish: The Birth of the Prison*, pp182-183.

identities, dominant discourses and metanarratives have over people's everyday experience and open up space for the appearance of the other, different or new. This perspective presupposes a background ontology which views human beings as fundamentally embedded within, rather than standing apart from the world, a world which is continually being constituted, and re-constituted through language. It challenges traditional foundationalist, representationalist thinking which tends to fix subject/object relations and thereby perpetuate inherited hierarchies.

What are the implications of this perspective for respect, justice and normative political thought? In the following I consider several key ways in which theorists informed by the Difference perspective have critically engaged particularly with theories of distributive justice and human rights. During the past decade or so, much work has been done by defenders of radical and participatory forms of democracy, towards reconciling liberal commitments to principles of freedom and equality, with the demands of difference and plurality.[83] For the purposes of the present argument I focus on Iris Marion Young's reflections on: first, liberal notions of impartiality equality and justice; second, normative political thought's exclusion of consideration of unconscious behaviour; and third, the social ontology assumed within the dominant distributive approach to justice.

The Difference Critique of Liberal Ideals of Impartiality and Reason

We have so far seen that the notion of impartiality (or disinterestedness or critical distance) as freedom from particular personal commitments and causal conditions more generally, is integral to a Kantian ideal of autonomy and justice. I have also suggested that it constitutes a valuable explanatory

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[83] For an overview of this project see Chantal Mouffe, 'Preface: Democratic Politics Today', *Dimensions of Radical Democracy: Pluralism, Citizenship, Community*, ed. Chantal Mouffe, Verso, London, New York, 1992. See also Joshua Cohen, 'Procedure and Substance in Deliberative Democracy', *Deliberative Democracy*, eds. James Bohman and William Rehg, MIT Press, Cambridge, Massachusetts, 1997, pp407-437.

device within a contemporary pluralist account of autonomy which seeks to affirm human agency. The notion of impartiality inherited from the liberal tradition is nevertheless a key target within Young's penetrating critique of liberal normative thought. Along with many political theorists strongly informed by the Difference stream, Young's critical evaluation proceeds from the alienation and injustice experienced by members of minority groups or colonised people(s) living under liberal-democratic regimes.[84] Her critical analysis of implications of dominant ideals of impartiality, rationality and equality, particularly for the lived experience of members of minority groups, must be addressed within a theory of autonomy defended as the commonality which must be assumed if (trans-cultural) justice is to be founded on communication rather than coercion.[85]

Young rightly argues that the discourse of justice and rights paradigmatically views moral reasoning as the adoption of an impartial and impersonal point of view which is detached from particular interests, weighs all interests equally, and arrives at conclusions which conform to general principles of

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[84] In her influential book *Justice and the Politics of Difference* Young explores the implications for conceptions of social justice, of the claims of new group-based social movements and 'postmodern philosophy's challenge to 'the tradition of Western reason'. Young exposes the reductionism of modern political theory which she argues tends to 'reduce political subjects to a unity and to value commonness or sameness over specificity and difference'. Young, *Justice and the Politics of Difference*, p3. Young argues that while liberalism does not deliberately set out to undermine particular minority identities, the construction of a dominant cultural and political structures more subtly denies the worth of their particular identities and aspirations.

[85] As liberal theorist Chandran Kukathas argues, the power of Young's critique of liberalism 'stems from her focus on the oppression and domination as these are manifest and lived around and through group differences'. Further, her argument that the ideology of liberal humanism contributes to these oppressions by perpetuating patterns of dominance through oppression is one that liberalism needs to answer. Kukathas argues, however, that Young's theory of oppression is flawed, resting on a social ontology which is less plausible than offered by liberalism as it employs an overly simplified view of the process of group assimilation, and contends that social and political democracy is the antidote to oppression. Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, pp148-159.

justice and human rights.[86] She also argues that an ideal of moral reasoning which places impartiality at its centre expresses the 'logic of identity' introduced above. This logic denies difference and presupposes and affirms an impossible ideal of moral reasoning: as is the case with other instances of the logic of identity, the ideal of an impartial reason constructs an opposition between that which is identified with the universal (ie capacity for distance, detachment, disinterestedness) and that which has been excluded (the partial and particular – feeling, desire, care, commitments etc.).[87] However, because feeling, desires, commitments etc. do not cease to exist and motivate moral reasoning, this definition of moral reason fails, and the ideal of impartiality expresses what is in fact an impossibility. The ideal of impartiality consequently functions 'ideologically', that is, it 'helps reproduce relations of domination or oppression by justifying them or by obscuring possible more emancipatory social relations'.[88]

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[86] Young characterises impartiality within mainstream political thought, liberal theories of justice and human rights in particular, as achieved by abstracting from particularities of history, experience, feelings, desires, interests, and commitments – a 'view from nowhere'. Young, *Justice and the Politics of Difference*, p100. As discussed below, the discourse ethics of Apel and Habermas has done much to reformulate the ideal of an impartial or just point of view, reconceiving it as a product of ideal conditions of communicative discourse which embody principles of mutual respect and non-coerced dialogue. See Habermas, 'Discourse Ethics: Notes on a Program of Philosophical Justification', pp43-115.

[87] Young argues that the impartial, transcendental subject denies difference by reducing particularity to unity in three ways. First, by reasoning from universal principles that 'apply to all moral situations in the same way'. Second, by eliminating heterogeneity in the form of feeling – by abstracting from the particularity of bodily feeling, its needs and inclinations, attachments to the experienced particularity of things and events. Third, by reducing the plurality of moral subjects to one subjectivity: the impartial point of view of reason is one that any and all could adopt and this is achieved by abstracting from the situational particularities that individualise individual subjects. She argues that this monological view of moral reasoning holds even in the case of theorists (including Rawls) who seeks to recognise human plurality. Young, *Justice and the Politics of Difference*, pp100-102.

[88] Ibid., p112.

Before considering this critique any further, it must be acknowledged at the outset that as early as Mill, liberal theorists have viewed reflection on feeling and face-to-face debate with people whose views are different from one's own as an important feature of moral reasoning and hence impartial judgment.[89] While the Kantian ideal of impartiality which stresses the solitary process of reflective thought is still clearly strong, critical reflection on actual points of view of different others has at least since Kant been identified with the liberal ideal. And recent liberal thought has done much to affirm the importance of engagement with different others and the role of feeling and faculties of perception in moral reflection.[90]

It remains, however, that notions of critical distance, abstraction, freedom from determinate conditions, sensations and feelings have prevailed within dominant liberal understandings of impartiality. Further, and as I discuss below, priority continues to be given to discursive critical faculties over critical faculties of feeling and perception.

As I am also arguing here that some kind of conception of impartiality or critical distance which centrally entails freedom from causal constraints is integral to the moral autonomy, O'Neill's critique must be taken seriously and addressed if the proposed account is to avoid also being criticised for

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[89] In *On Liberty* Mill states that good judgment, the judgment of the wise and moral being, rests on capacity to rectify past judgments 'by discussion and *experience*.' J.S. Mill, *On Liberty and Considerations on Representative Government*, ed. Gertrude Himmelfarb Penguin, London, 1985, p80. Further, he stresses that in order to come to the truth, arguments must be heard 'from persons who actually believe them; who defend them in earnest, and do their very utmost for them'. The impartial judge … 'must feel the whole force of the difficulty'... before he comes to a decision(p99).

[90] Martha Nussbaum for example defends a conception of moral reason and deliberation derived from Aristotle, endorsing the use of faculties of 'perception' in moral deliberation, and the priority Aristotle gives to 'concrete situational judgments of a more informal and intuitive kind'. Nussbaum, 'The Discernment of Perception: An Aristotelian Conception of Private and Public Rationality', p66. See also Benhabib, 'Deliberative Democracy and Multicultural Dilemmas', pp133-146.

being similarly implicated in an ideal which perpetuates oppression and alienation.

Young acknowledges that defenders of the ideal may view impartiality more as a regulative if unrealisable ideal than as a substantive account of moral reasoning. She nevertheless argues that even if the former is the case, widespread commitment to the ideal serves at least three 'ideological' functions which help reproduce relations of domination or oppression, by either justifying them or obscuring possible more emancipatory social relations: First, it bolsters the idea of a neutral state which in turn provides some grounds for the distributive model of justice – a model which assumes that justice is 'dispensed' by an impartial authority. Second it legitimates bureaucratic authority and hierarchical decision-making processes – the rule of government officials.[91] Third, the ideal reinforces oppression by hypostatising the point of view of privileged groups into a universal position. Where some social groups are more privileged than others, the standpoint of the privileged, their particular experiences and standards are constructed as normal and neutral; experience that differs from this 'neutral' experience is constructed as deviant or inferior.[92]

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[91] Young, *Justice and the Politics of Difference*, p115. Young argues that both the ideal of the neutral state and of the neutral public servant mask the partiality of flesh and blood decision-makers.

[92] In this way the experiences and values of the oppressed are ignored and silenced. Further minority group challenges to the alleged neutrality of prevailing assumptions and policies and expression of experience, tend to be heard as expressing biased, selfish and special interests that deviate from the impartial general interest. Ibid., p116. Assuming that 'impartial consideration' is understood to indicate a fair hearing – 'consideration without prejudice founded on [their] race or sex or on other circumstances irrelevant to the matter of justice', Kukathas takes Young's point that impartiality can 'turn out to be a means by which the privileged group presents its own particular norms as universal'. He comments that '[t]he argument that "it's the same for everyone" is clearly fraudulent when the rule is systematically and unjustifiably biased against some. After all, the Nazis persecuted *anyone* with Jewish blood'. However, Kukathas argues that at most this demonstrates only that impartiality can be turned to unjust purposes, and that claims about impartiality are contestable. Here I think Kukathas misses Young's point that what is at issue is *who*

Critique of Liberal Equality's Blindness to Difference

Young argues that the ideal of impartiality has also informed an 'assimilationist' ideal of equality, which contributes the oppression and alienation of members of minority groups: the Enlightenment commitment to equality of respect 'assumes that equal social status for all persons requires treating everyone according to the same principles, rules, and standards'. Or as Crowder expresses it, equal treatment entails 'treatment that does not discriminate irrationally' … 'people should be treated in the same way unless there is good reason to treat them differently'.[93]

Young identifies three ways in which the liberal 'assimilationist' ideal of equality contributes to oppression:

First, its difference blindness fosters public policy strategies which aim to bring formerly excluded groups into the mainstream, disadvantaging members of groups whose experience, culture and socialised capacities differ from those of privileged groups, because members of such groups always

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decides what is 'relevant to the matter of justice', and that dominant liberal interpretations of impartiality skews our understanding of what counts as relevant to justice in favour of members of minority groups. Nevertheless, I argue below that rather than jettisoning the ideal, we need to rethink impartiality, in particular what it means to deliberate 'without prejudice', so as to take into account often unconscious prejudices held by members of dominant majority groups which contribute to experience of 'injustice' by minority group members.

[93] Ibid., pp156-158. Crowder, *Liberalism and Value Pluralism*, p22. Young acknowledges that this ideal has been 'a crucial historical development in the struggle against exclusion and status differentiation' and has also 'inspired the struggle of oppressed groups and the supporters against exclusion and denigration'. However, movements of the oppressed within American history have also found the organisation and assertion of a positive group cultural identity as a better strategy for achieving power and participation in dominant institutions. Examples of such movements include the Black civil rights movement, the American Indian Movement and more recently Spanish speaking Americans embracing their Latin American heritage, the gay, lesbian and radical feminist movements. (pp159-163)

come 'into the game after it is already begun, after the rules and standards have already been set'. Because the privileged groups set the rules and standards, but these are presented not as culturally and experientially specific but rather as neutral and universal, the differences between the oppressed groups and the dominant norm are experienced as disadvantage.

Second, the ideal of a universal humanity without social group differences allows the norms expressing the point of view and experience of privileged groups to appear as neutral and universal, allowing privileged groups to ignore their own group specificity and marking oppressed groups with their particularity, objectifying them as Other.

Third, and following on from this point, the existence of an allegedly neutral ideal of human standards according to which all are evaluated, often leads to those who deviate from this standard experiencing an internalised self-devaluation. For example Puerto Ricans or Chinese Americans are ashamed of their accents or parents, Black children despise the female-dominated kith and kin networks of their neighborhoods, feminists seek to root out their tendency to cry. [94]

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[94] Young, *Justice and the Politics of Difference*, p165. Kukathas takes issue with Young's portrayal of liberalism as assimilationist, underlining the liberal commitment to toleration of difference which he argues is neither particularly for or against assimilation – it is 'culture blind'. While he acknowledges that it is Young's contention that blindness to cultural difference is *effectively* assimilationist, he argues that her critique is based on a misleading, partial account of 'the complex interactions which take place when a minority (individual or group) comes face to face with mainstream society'. The degree to which members of minority groups assimilate will vary – assimilation is a matter of degree (unless migrants for example opt to head back home). While he acknowledges that the pressures of assimilation (ie including the associated shame and 'self-loathing') do exist, he argues that the pressure to conform is a human one (not unique to liberal regimes) and the dangers of state intervention to protect some minority groups from its consequences outweigh the benefits. According to his (radically non-interventionist) view, 'while liberalism realizes that those who are different will invariably suffer the slights, sniggers and the curses of the multitude, it also refuses to grant the multitude any standing, or to lessen – or elevate – the standing of the minority'. He argues that the sufferings that

Young argues that while formal equality before the law has, in many ways, been achieved, and there is widespread agreement that exclusion from political and economic activities should not be because of ascribed characteristics, group differences do continue to exist, and certain groups continue to be privileged; in everyday interactions, images, decisions, assumptions about women, Blacks, Hispanics, gay men and lesbians, old people and other groups continue to be marked as deviant or Other, and these 'continue to justify exclusion, avoidance, paternalism, and authoritarian treatment'. Under these conditions the difference-blindness, to which prevailing ideals of equal treatment and impartiality contribute, have oppressive consequences.

I argue below that Young's critique of these 'assimilationist' effects of liberal ideals of impartiality and equal treatment requires not a jettisoning, but revision of these ideals. With theorists of radical and participatory democracy, I argue that equality of respect requires a shift in emphasis away from an ideal of non-prejudicial thought as critical reflection in the light of universal principles, at a distance from the issue or person in question. Greater attention must be given to the critical faculties needed to engage with, and attend to the particularities of the individual case at hand. As noted above, much has been done within liberal thought to open up the ideals of impartiality, equality of respect and equal treatment to

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minorities endure are better interpreted as 'opportunity costs' rather than oppressions. (For example, when Mr Ahmad, schoolteacher, discovered that his newfound employment did not offer him time off on Friday to attend the mosque, he had 'to bear the consequences of his beliefs himself, and either miss prayers or lose his job. It was not possible for the school to bear the consequences of his beliefs'.) While I share some of Kukathas' scepticism towards attempts to alleviate the experience of oppression through both strong state intervention, as well as deliberative democracy, I argue below that Young's critique of liberal normative ideals of impartiality and equality suggest that these *are* implicated in minority group experiences of alienation, and a sounder liberal theory will re-interpret these ideals to address these experiences. For Kukathas' critique of Young see Chandran Kukathas, 'Liberalism, Multiculturalism and Oppression', pp138-146.

acknowledge the moral significance of attention to socio-cultural particularities. However, it remains that the distributive view of justice, which employs an ideal of justice and respectful treatment which emphasises the impartial application of universal principles of justice, *over and above* capacities and virtues required to engage respectfully with people face-to-face, opens a door to absolving decision-makers of responsibility for critically examining what are often unconscious prejudices, which may be skewing their judgments in favour of dominant, mainstream forms of rationality and ways of life.

Philosophy's Exclusion of the Body, Unconscious Aversions and Oppression

Young also argues that the liberal ideals of reason and impartiality, which set up a dichotomy between reason and affectivity, contributes to political thought's self-understanding of proper philosophical subjects of inquiry. Political theory is typically about laws, policies, large-scale distribution of social goods and countable quantities such as votes and taxes rather than bodily reactions, comportments and feelings. Further, as one of the main aims of moral and political theory is to delineate principles which justify actions or form obligations, there is an implicit assumption that the moral life is conscious, deliberate and rational. Consequently, submission of habits, feelings or unconscious reactions to normative judgment can be implicitly assumed to be inappropriate. This has contributed to the exclusion of what are often invisible oppressions and unconscious phenomena from serious consideration.

This omission is of particular concern given that while, as noted above, there is widespread commitment to principles of equal respect and equal treatment for all, and further, racism, sexism, chauvinism etc. may well have receded at the level of *conscious* behaviour (or what Anthony Giddens calls *discursive* consciousness, see below), at the same time unconscious aversions and

behaviour continue to contribute to the oppression of minority group members. By ignoring these phenomena political thought contributes little to ending oppression sustained at the semi-conscious, practical level of experience. Only moral reflection that extends to habitual kinds of interaction, bodily reactions, unthinking speech, feelings and symbolic associations can investigate such oppression.[95]

Giddens' Three Levels of Consciousness

Giddens' three-level model of subjectivity provides a useful framework with which to bring attention to attitudes and behaviours that contribute to oppression which have been traditionally excluded from serious scrutiny within normative political thought:

At the first level, action and interaction are understood to involve 'discursive consciousness': those aspects of action and situation which are either verbalised, founded on explicit verbal formula or easily verbalisable.

The second level involves 'practical consciousness': the often complex reflexive monitoring of the relation of the subject's body to those of other subjects and the surrounding environment. This monitoring activity takes place on the fringe of consciousness, the kind of the habitual routinised background awareness that is involved in driving a car, for example.

The third level of consciousness he identifies is what psychoanalysis refers to as unconscious experience and motivation. Giddens identifies this level of experience with the 'basic security system'. This is the basic level of identity security and sense of autonomy required for any coherent action in social contexts, the subject's 'ontological integrity' which breaks down in psychotic cases. Here action is understood to involve 'the socially situated *body* in a

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[95] Young, *Justice and the Politics of Difference*, pp149-150.

dynamic of trust and anxiety in relation to its environment, and especially in relation to other actors'.[96]

> The prevalence of tact, trust or ontological security is achieved and sustained by a bewildering range of skills which agents deploy in the production and reproduction of interaction. Such skills are founded first and foremost in the normatively regulated control of what might seem … to be the tiniest, most insignificant details of bodily movement and expression.[97]

With this three-part, phenomenological view of the lived experience of the subject, the less visible, more nuanced aspects of experience which contribute to oppression of members of minority groups can come into better focus. Young argues that while at the *discursive* level most people adhere to principles of equal treatment and respect, the routines of *practical* consciousness (ie forms of identification, interactive behaviour, rules of deference etc) continue to operate in ways that mark members of minority groups as different and Other, contributing to the reproduction of relations of privilege and oppression. Many people who are at the level of discursive consciousness committed to, for example, equality of respect for women, people of colour, gays and lesbians and disabled people, at the same time nevertheless exhibit in their bodies and feelings (ie at the level of the basic security system) reactions of aversion or avoidance towards members of these groups.[98] White people for example, tend to be nervous around Black

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[96] Ibid., pp131-132.

[97] Ibid., p131, quoting Anthony Giddens, *The Constitution of Society* University of California Press, Berkeley and Los Angeles, 1984, p79.

[98] Young notes that those exhibiting the behaviour are rarely, at the level of discursive consciousness, aware of their actions – or of how they are experienced by others. Nevertheless people do 'know' about these behaviours at the level of practical consciousness. She identifies three reasons why these aversive, prejudices reactions are repressed. First, the encounters and the reactions they provoke threaten the people's fundamental sense of identity. Second, reason is constructed in our culture as separated from the body and feelings, and the latter is devalued. Third, the liberal imperative that differences should make no difference 'puts a sanction of silence' on these experiences.

people, men around women, and socially 'superior' groups avoid being close to a lower status group.[99]

Members of oppressed groups frequently experience such avoidance, aversion, expressions of nervousness, condescension, and stereotyping, and find these painful. This can often throw them back onto their group identity, 'feeling noticed, marked, or conversely invisible, not taken seriously, or worse, demeaned'. [100]

Explaining Unconscious Aversions: the 'Abject'

Julia Kristeva's concept of the 'abject', the feeling of loathing and disgust that the subject has in encountering certain matter, images, and fantasies to which it can only respond with aversion, distraction or nausea, helps explain the unconscious behaviours which Young identifies as having oppressive consequences for members of minority groups.[101]

Kristeva argues that these responses arise from primal repression, in which the infant reluctantly struggles to separate from the mother, establish a border between itself and other (the mother), and a separate corporeal schema. The infant can only establish this separate identity by expelling or rejecting the mother – a separation that is also experienced as a loss, a

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Consequently members of minority groups subject to disrespectful treatment often suffer in silence, unable to check their perceptions against those of others. Further, dominant social etiquette often finds it indecorous or tactless to point out instances of racism, sexism, etc. Often bringing to discursive consciousness behaviour and reactions occurring at the level of practical consciousness, is met with denial and powerful gestures of silencing, which can make oppressed people feel slightly crazy. Young, *Justice and the Politics of Difference*, p134.

[99] Group oppressions also persist in conventional practices of everyday interaction and evaluation, aesthetic judgments, and also in the jokes, images, and stereotypes pervading the mass media. See Ibid., p148.

[100] Ibid., pp132-134.

[101] Ibid., p143.

wound, a want. This is consequently a tenuous separation, and for fear of disintegration, the separated self must be continually defended by maintaining the border between self and other, through aversion to and rejection of the other. Here the 'abject' (as distinct from the object) – is not distinct or definable, but stands too close for comfort, just on the other side of the border.[102]

The abject provokes fear and loathing because it exposes the border between self and other as constituted and fragile, a response which can manifest in phobias. Because of the fragility of the border, *any* border ambiguity may become a threat to the borders of the subject.[103]

Young argues that the concept of the abject enhances an understanding of a body aesthetic that defines some groups as ugly or fearsome and produces aversive reactions in relation to members of those groups – racism, sexism, homophobia, ageism, ableism are partly structured by abjection – an involuntary, unconscious judgment of ugliness and loathing. At the level of practical consciousness women, Blacks, homosexuals, the mad and feebleminded for example are marked as different, Others, and the face-to-face presence of these others, who do not have their own 'place', a status to which they are confined, threaten aspects of a person's sense of identity or basic security system.[104]

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[102] See also Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p64. 'An identity is established in relation to a series of differences that have become socially recognized…Identity requires difference in order to be, and it converts difference into otherness in order to secure its own self-certainty. Identity is thus a slippery, insecure experience, dependent on its ability to define difference and vulnerable to the tendency of entities it would so define to counter, resist, overturn , or subvert definitions applied to them.'

[103] Young, *Justice and the Politics of Difference*, pp143-145; Julia Kristeva, *Powers of Horror: An Essay in Abjection* Columbia University Press, New York, 1982.

[104] Young, *Justice and the Politics of Difference*, p146.

Young notes that while Kristeva's theory does not explain the social construction of the association between social groups and abject matter, once this link is made her theory can be employed to describe how these associations lock into the subject's identities and anxieties. Because, by association, members of these groups represent a threat to the identity itself, a threat to the 'basic security system', the subject reacts to members of these groups with fear, nervousness and aversion.[105]

Implications of the 'Abject' for Normative Political Thought

Young's critique of unconscious oppressive behaviours coupled with Kristeva's explanation of the deeply-held aversions which fuel these behaviours, suggest that the proposed theory must employ an ideal of impartiality and of justice which addresses rather than obscures both. That is, the theory must explain how deeply-held, often unconscious prejudices which can block communication between different others can be made conscious, critically evaluated and overcome. Further, if, as Kristeva's analysis suggests, these deeply held aversions are due to the fragility of the constitution of the modern identity, then a theory of autonomy and justice which fully addresses contemporary experiences of oppression will employ a ontological perspective which explains how alternative, positive sources of identity can be cultivated.

Critique of the Social Ontology of the Distributive Paradigm

The final feature of Young's critical evaluation of normative liberal political thought which must be addressed within the proposed theory, is her critique of the social ontology integral to the distributive approach to justice. Young argues that liberal theory's 'paradigm of distributive justice' runs through contemporary discourse about justice and 'ensnares' philosophical thinking of even the critics of this dominant liberal framework. It defines social justice

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[105] Ibid., p145.

as the morally proper distribution of social benefits and burdens among society's members, most importantly wealth, income and other material benefits.[106]

The distributive view of justice masks the fact that the social goods to be distributed are defined by normative understandings that prevail within dominant social groups, rendering invisible the meanings attached to social goods of people who are members of minority groups, undervaluing and undermining their own particular cultural understandings and obscuring the actions, relationships and contexts through which social goods and relations are defined.[107]

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[106] Ibid., pp16-18. Young refers to this as the distributive 'paradigm' where the latter indicates 'a configuration of elements and practices which define and- inquiry: metaphysical presuppositions, unquestioned terminology, characteristic questions, lines of reasoning, specific theories and their typical scope and mode of application'. (p16) Young argues that the work of liberal theorists Rawls, Runciman, Ackerman, Galston, and their critics David Miller, Edward Nell, Onora O'Neill and Kai Nielsen are all working within the distributive paradigm. She notes, however, that in his *Spheres of Justice* Michael Walzer is 'interestingly ambiguous' on the issue: on the one hand he argues that it is the 'structure of dominance', rather than the distribution of what he defines as 'dominant goods' that ought to be the concern of critics; on the other hand Walzer 'repeatedly and unambiguously uses the language of distribution to discuss social justice, in sometimes reifying and strange ways'. In his chapter on the family, for example, he speaks of the just distribution of love and affection. Young, *Justice and the Politics of Difference*, pp16-17.

[107] Young argues that the focus on the distribution of social goods is too narrow as it ignores the 'sites' of definition of these goods, tending to obscure the 'institutional context' in which those distributions take place, which is often at least partly the cause of patterns of distribution of jobs or wealth. Here institutional context is understood to embrace institutions of state, family, civil society, and the work-place. Young, *Justice and the Politics of Difference*, pp18-24. Certainly prominent liberal theorist Will Kymlicka has argued for recognition of cultural differences, and defends the protection of particular cultural rights for some cultural groups. However, as Kukathas argues, Kymlicka's revision of Rawls's 'justice as fairness' entails the addition of 'culture' as a vitally important primary good. That is, these rights are attributed value from the point of view of a liberal, national, 'political' culture which 'insists that people can stand back and assess moral values and traditional ways of life, and should be given not only the legal right to do so, but also the social conditions which enhance this capacity (eg liberal education)' Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* Oxford University Press,

As well as focussing too narrowly on distribution, Young argues that this paradigm also over-extends the 'concept of distribution', identifying any social value as a social 'good', and discussing it in distributive terms.[108] This leads to a false social and human ontology which assumes that social judgments are about possession, implicitly viewing subjects as prior to and independent of the goods they possess.[109]

Young's critique of this social ontology suggests that a theory which seeks to affirm human agency and embrace human plurality must employ a social ontology which views people as actively engaged in constituting shared meanings, values and standards. Young's critique of the distributive ontology also reinforces criticisms I have made of theories of justice which employ the social-contract model and assume that justice must proceed from shared principles of justice (by virtue of a common capacity for discursive reason). The proposed theory must instead conceive of justice as a process through which shared understandings of justice (as well as other relevant standards) are determined in ways that extend equality of respect to all parties concerned, by beginning with attention to the relevant particularities of the case, as presented by the parties in question.

Oxford, 1995, p92. Kymlicka's recognition of cultural difference remains within the distributive model of justice, legitimated by a liberal conception of the good. Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom*, p188.

[108] For example social values such as love, power, truth etc. are 'treated as some thing or aggregate of things that some specific agents possess in certain amounts'. Young, *Justice and the Politics of Difference*, p24.

[109] Ibid., pp17,18,25. This ontology assumes that 'there is no internal relation among persons in society relevant to considerations of justice' and tends to preclude thinking about what people are doing, and how institutionalised relations and rules impact upon their lives.

Rethinking Justice from the Difference Perspective: Positive Proposals

So far I have focussed on the critical contributions to political thought from theorists associated with the Difference stream. Although reflection on justice within the Difference stream has been predominantly critical, positive proposals have been put forward. These proposals emphasise the values associated with deliberative democracy of publicity, inclusion, equality, reasonableness.[110] For example Young defends a 'dialogic' rather than monological ideal of moral reason which, following Habermas' communicative ethics, views moral reason as 'the product of discussion among differently situated subjects all of whom desire recognition and acknowledgement from others'. Here focus shifts from concern with distributive patterns, to procedural issues of participation in deliberation and decisionmaking. Reflecting Habermas' and Apel's revisions to the Kantian principle of universalisability, in this view for a norm to be just, everyone who follows it must in principle have an effective voice in its consideration and be able to agree to it without coercion. Following on from this, Young argues that for a social condition to be just, it must enable all to meet their needs and exercise their freedom. Consequently justice requires that all be able to express their needs.[111]

Similarly, James Tully is a strong advocate of cultural recognition within modern constitutionalism. Echoing Young's critique of the ideological functions of the ideal of impartiality, Tully argues that the 'modern

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[110] Young, *Inclusion and Democracy*, p23. Key theorists of deliberative democracy include Jurgen Habermas, Joshua Cohen, James Bohman and Amy Gutmann. Reflecting O'Neill's reading of Kant's 'Public Pse of Reason' James Bohman argues that questions concerning the legitimacy of democratic associations focus on the nature of deliberative procedures, because the legitimacy of decisions must be determined by the practical reason of agents: 'the critical judgment of free and equal citizens'. Bohman, *Public Deliberation: Pluralism, Complexity and Democracy*, p2 .

[111] Young, *Justice and the Politics of Difference*, pp106, 134. On Habermas's and Apel's 'discourse ethics' reformulation of the Kantian universability principle see Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics*, pp24-38.

constitutionalism' of liberal democracy systematically mitigates against these aspirations because of the often unconscious priority given to the normative dominant culture.[112] He argues that it must be acknowledged that 'the basic laws and institutions of modern societies and their authoritative traditions of interpretation are unjust in so far as they thwart the forms of self government appropriate to the recognition of cultural diversity.'[113] Consequently self-determination *in accord with one's customs and ways* must be viewed as fundamental to justice.[114] And the formulation of a just constitution requires the participation and recognition of particular identity groups:

> … if the cultural ways of the citizens were recognized and taken into account in reaching an agreement on a form of constitutional association,

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[112] Tully argues that 'the language employed in assessing claims to recognition continues to stifle cultural differences and impose a dominant culture, while masquerading as culturally neutral, comprehensive or unavoidably ethnocentric'. James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity* Cambridge University Press, Cambridge, 1995, p35. Tully locates his argument for constitutional 'cultural recognition' at the end of a 400-year process of historical evolution of 'modern constitutionalism'. He characterises this as a three-phase process in which different kinds of social movements opposed various forms of imperialism. First European nations sought to define themselves in opposition to the Holy Roman Empire and feudal and absolutist society. Second, colonies that had been constructed by the imperial nations states during the former phase sought to free themselves of European imperialism. In the third phase of the 'politics of cultural recognition', peoples and cultures excluded and suppressed by the first two movements of decolonisation and constitutional state building - including nationalist movements, indigenous cultures, linguistic minorities, women, gays and lesbians - demand different forms of 'self-rule': For example nationalist movements and Indigenous cultures strive for their own political institutions, linguistic minorities, multicultural groups; women tend to 'seek to participate in the existing institutions of the dominant society but in ways that recognize and affirm rather than exclude, assimilate and denigrate their culturally diverse ways of thinking, speaking and acting'. (pp14 -16)

[113] Ibid., p5.

[114] 'Culture' is defined broadly here as 'a way of relating to others in any interaction, a way of following or challenging a social rule, and so a dimension of any social relation, from a cultural slur in the workplace to the relations among nations'. See Tully, p5..

the constitutional order, and the world of everyday politics it constitutes, would be just with respect to this dimension of politics. [115]

Tully concludes that there *is* scope for 'justice within modern constitutionalism but only if the model of a constitutional framework is radically overhauled'.[116]

> This world reversal, from a habitual imperial stance, where one's own customary forms of reflection set the terms of the discussion, to a genuinely intercultural popular sovereignty, where each listens to the voices of the others in their own terms, is the most important and difficult first step in contemporary constitutionalism.[117]

Both Young and Tully clearly view justice as a process of self-expression, dialogue and self-determination.[118] Both suggest that justice is better conceived as a deliberative process in which affected parties participate, and which proceeds from listening to each party's culturally-particular concerns, rather than from a perspective which is presumed to be shared, 'impartial' or at least maximally neutral.   Because '[w]hat is at issue is not just the

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[115] Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity*, p6. Conversely, to the extent that a constitution excludes or assimilates 'the diverse cultural ways of the citizens' it is, to that extent, unjust.

[116] To date, however, the current model has constituted 'always a limited and partial description of justice which, when imposed, galls the necks of others and leads to discord'. Tully, p211..

[117] This post-imperial dialogue on the just constitution of culturally diverse societies, 'must be one in which the participants are recognized and speak in their own languages and customary ways'. Participants must neither be silenced nor constrained to speak only 'within the institutions and traditions of interpretation of the imperial constitutions that have been imposed over them'. Tully, p24..

[118] Young defines social justice as concerned with 'the degree to which a society contains and supports the institutional conditions necessary for the realization of the values that constitute the good life'. Such values can be reduced to (1) developing and exercising one's capacities and expressing one's experience and (2) participating in determining one's action and the conditions of one's action. Young, *Justice and the Politics of Difference*, pp35-37.

distribution of an agreed and determinate set of social goods, but a disparity between different conceptions of social good', to conceive of justice as proceeding from common principles of justice, fails to give due consideration to socio-cultural difference.[119] Justice requires that all parties to a dispute are given equal opportunity to express what for them is vital to the issues at stake, and for this to be listened to in a way that ensures that their own, culturally-particular needs and values are heard.[120]

These positive suggestions would seem to begin to address the Difference critique of the 'difference blindness' and 'assimilationist' tendencies of ideals of impartiality and justice identified with the Dignity approach to political thought. I return to consider the implications of the contributions of discourse ethics and theories of democratic 'deliberation', for the tasks of rethinking impartiality and autonomy in a moment.

I have also, however, characterised the Difference perspective as centrally committed to destabilising normative ideals, and as wary of being implicated in further perpetuating the authority of dominant ideals of reason and the moral subject. Consequently, any constructive proposals from within the Difference perspective must be reconciled with the fundamental Difference commitment to destabilising normative ideals. A normative theory which takes seriously the Difference critique must thus address the tension between the normative project of traditional political thought and the critical project of the Difference perspective.

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[119] Paul Patton, 'Justice and Difference: The Mabo Case', *Transformations in Australian Society*, eds. Paul Patton and D. Austin-Broos, Research Institute for Humanities and Social Sciences, University of Sydney, Sydney, 1997, p87.

[120] On the ways in which normative standards of engagement which privilege argument can silence less articulate, less confident people(s) see Young, *Inclusion and Democracy*, pp37-40.

Addressing the Paradox of Ethicality ithin Normative Political Thought

Young describes this as a 'dilemma' which 'any normative theorists in the postmodern world' faces: how to reconcile the fact that 'any normative theory implicitly or explicitly relies on a conception of human nature' with the critical view which suggests that 'we should reject the very idea of a human nature as misleading or oppressive'.[121] Similarly Stephen White argues that if justice is to be conceptualised in a way that addresses 'the best of more traditional theories of justice' as well as 'the postmodern problematic' with its core concern with 'otherness', such a project must take seriously the 'depth of the dilemma that postmodern reflection on ethical-political life has created for itself': the tension between its *epistemological* project which seeks to 'deflate all totalistic, universalistic, efforts to theorize about justice and the good life' and its *practical* project – to 'generate effective resistance to the present dangers of totalizing, universalizing rationalization processes in society'.[122]

William Connolly labels the conflict which arises because traditional ethical thought would seem to be inevitably implicated in the marginalisation, silencing and oppression of the other, the 'paradox of ethicality': if there is to be ethical discrimination, there is on the one hand a need for standards of identity and responsibility (best viewed as 'indispensable constructions' rather than as 'disposable fictions or natural kinds'). However, on the other, the 'application of any such set of historical constructions does violence to those to whom it is applied'.[123]

Connolly endorses Nietzsche's and Foucaults' genealogical projects which he characterises as engaged in 'expos[ing] a persistent paradox of ethicality'. Genealogy seeks and probes moments in which the persistent paradox of

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[121] Young, *Justice and the Politics of Difference*, p36.

[122] White *Political Theory and Postmodernism*, p116.

[123] Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p12.

ethicality can be discerned and engaged, and invokes 'a second-order ethicality to counter the moral pressures that would suppress the paradox of ethicality'.[124]

Young, White and Connolly have all sought to address the 'paradox of ethicality' within their political thought. All three have proposed alternative normative political ideals informed by the critique of Identity/Difference, but have avoided grounding these in a philosophically justified metaphysical framework. They have also employed other strategies to distance their work from western metaphysics.

Capacious Normative Ideals

First, while Young's focus is on critique, where she does affirm positive, alternative ideals, these are presented in highly general, capacious terms. Maintaining that 'any definition of human nature is dangerous because it threatens to devalue or exclude some acceptable individual desires, cultural characteristics or ways of life' she characterises her project as more concerned with 'displacing' dominant guiding images associated with the distributive paradigm than with defending her alternative proposals. She argues that the 'imaginative shift' she proposes 'could be as oppressive as consumerist images if it is made too concrete', but that as long as the values

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[124] Ibid. Connolly argues that Nietzsche and Foucault 'devise strategies for cultivating care for identity and difference in their relations of discordant interdependence' ... 'in a world where hegemonic claims to identity are always already permeated by ethical dispositions and marked by proclivities toward moral self-righteousness'. Rather than seeking an epistemic ground of ethics ('for the unrelenting demand for an answer to that question fosters either a passive nihilism in which one becomes immobilized from action or an aggressive nihilism in which cracks or fissures in the answer endorsed are suppressed to preserve its sanctity') their quest is for '*ways* to cultivate care for identity and difference in a world already permeated by ethical proclivities and predispositions to identity'. Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p10 'They oppose to the authoritarianism of the various command ethics that have populated western thought an ethic of cultivation'. Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p10.

appealed to are abstract enough 'they will not devalue or exclude any particular culture or way of life'.[125]

Proceeding from Experiences of Injustice

Second, Young presents her work as in large part proceeding not from abstract normative assumptions about human being and social institutions, but rather from the experiences of oppression and marginalisation of members of minority social groups. White also argues that contemporary political thought must first focus on the phenomena of injustice. [126]

Disavowing Claims to Truth: Engaging in Immanent Critique

Third, Young states that she does not 'construct a theory of justice', arguing that discourse about justice 'should not pose as knowledge in the mode of seeing or observing, where the knower is initiator and master of the known'. Nor should discourse on justice be motivated in the first instance 'by curiosity, a sense of wonder, or the desire to figure out how something works'. Rational reflection on justice begins instead with 'listening' and 'hearing', 'a heeding call' and aims to clarify 'the meaning of concepts and issues, describing and explaining social relations, and articulating and defending ideals and principles' rather than to build a systematic theory.

Young follows critical theory and characterises herself as engaged in 'normative reflection that is historically contextualized'… beginning from

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[125] Young, *Justice and the Politics of Difference*, pp3,36,37. While I endorse strategies towards greater capaciousness as more inclusive and hence more respectful of different ways of life, I disagree with Young's statement that where values appealed to are sufficiently abstract they will not devalue or exclude any way of life. Any meaningful normative theorising will affirm some ways of life more than other; this is unavoidable.

[126] Ibid., pp5-6. For White, this is in addition to taking fostering otherness as seriously as promoting toleration, and explaining when constraint of otherness is appropriate. White *Political Theory and Postmodernism*, p117.

'historically specific circumstances'. In contrast to positivist theory which she argues 'separates social facts from values, and claims to be value-neutral', Young aims 'to evaluate the given in normative terms'. The normative ideals used to criticise a society are nevertheless acknowledged to be 'rooted in experience of and reflection on that very society'. Addressing the charge that normative theory presents itself as detached and as transcending the social context in which the social theorist is actually embedded, Young adheres to a conception of the social theorist as social critic similar to that endorsed by Michael Walzer. Here the critic is understood to be 'engaged in and committed to the society he or she criticizes', rather than detached (although he or she is understood to stand apart from the society's ruling powers). [127]

We have seen that Young affirms an alternative social ontology and conception of human flourishing. However, her own critical work, as well as the insights of critical theory and post-structuralism/modernism, debar her from making positive, substantive claims which affirm these ideals. Consequently she makes an epistemic retreat, eschewing 'truth' claims and presenting her work as 'political', making arguments which 'are addressed to others and await their response, in a situated political dialogue'. In fact in *Justice and the Politics of Difference* she goes so far as to reject metaphysical questions as the proper concern of political thought.[128]

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[127] Young, *Justice and the Politics of Difference*, pp3-5. See also Young, *Inclusion and Democracy*, pp14-15 where she continues to characterise her work as engaged in 'situated conversation'.

[128] Young, *Justice and the Politics of Difference*, p5. She defends her position stating: 'In this book I do not explicitly treat metatheoretical questions about the criteria for evaluating theoretical approaches to social and normative theorizing. When social theorists and social critics focus on such epistemological questions, they often abstract from the social issues that originally gave rise to the disputes and impart an intrinsic value to the epistemological enterprise. Methodological and epistemological issues do arise in the course of this study but I treat them always as interruptions of the substantive normative and social issues at hand'. Young, *Justice and the Politics of Difference*, p8.

Similarly, Connolly advances an idealisation of politics which builds on recognition of the 'unavoidability of fundamental presumptions and the unlikelihood of secure knowledge of their truth into an ideal of political discourse itself'.[129] He endorses an 'ethic of cultivation' and argues that such an ethic requires first 'genealogy as a mode of reflection' and second 'democratic politics as its privileged mode of public life'. Together these foster the 'experience of contingency in identity' amid contrary pressures in 'the inertia of language, imperatives of social coordination'… 'and the desire to transcend the paradox of ethics'.[130] He aims to work 'within and against the terms of the paradox', first, 'wagering that it is better to expose it than to suppress it' and second, 'placing a second bet that a counter-ontological projection may open up productive possibilities of reflection in this domain'.[131] While he does not actively pursue strategies of deconstruction he does nevertheless aim to challenge those social ontologies which have

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[129] Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p122. Connolly explores an alternative political theory which first, presents people as 'strive[ing] to interrogate exclusions built into their own entrenched identities', second, 'pursues an agonistic ethic of care that ambiguates assumptions' it finds itself compelled to make about the truth of the identity it endorses, third, 'probes the idea of a politicization of difference' which tests and loosens conventional standards 'sealed in transcendental mortar' through political contestation and fourth, 'explores the ethicality of a politics … alert to the tragic gap between the imperatives of organization in the order it idealizes' and the possibilities of life beyond that order. Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p14.

[130] Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, pp10-11. Connolly argues that a variety of ontotheological strategies including the 'myth of social contract, an elaboration of transcendental proofs, a fictive standard of rational consensus, or the discernment of a harmonious *telos* in being' are employed to bury the paradox. Further, attempts are made to 'seal this burial' by insisting that one cannot even recognise a paradox of ethics unless on is 'implicitly committed to one of these strategies as the ground of ethicality'.(p13)

[131] Ibid., pp14-15,13. In Identity/Difference his project thus pursues the project begun by Nietzsche and Foucault of '[e]ngaging in the paradox of ethicality by cultivating the experience of contingency in identity' seeking not to develop a new philosophy of identity and difference but to 'intervene from a distinctive perspective in theory-imbued practices of identity and difference (always) already in place'.

implicitly governed contemporary political reflection by 'working against them from the inside', advancing alternative counter-interpretations and ontological-projections, themselves open to contestation.[132]

Connolly's project eschews the traditional foundationalist approach to defending normative ideals of justice and subjectivity. He is nevertheless prepared to advance an idealisation of politics which highlights the paradox of ethicality.[133]

How can the proposed theory of autonomy best respond to the paradox of ethicality, in particular the conflict between the Difference commitment to challenging normative ideals, and the traditional theoretical task of delineating and defending them?

Responding to Difference Strategies: Affirming Capacious Ideals and Metaphysics

First, from the point of view of respecting cultural diversity within normative political thought, Young's strategy of seeking to construct highly capacious normative ideal must be endorsed. As I have argued above, however, a theory most adequate to historicist insights and pluralist commitments will seek to employ maximally-capacious, minimally-determinate assumptions concerning human commonality.

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[132] Ibid. . In Identity/Difference his project thus pursues the project begun by Nietzsche and Foucault of '[e]ngaging in the paradox of ethicality by cultivating the experience of contingency in identity' seeking not to develop a new philosophy of identity and difference but to 'intervene from a distinctive perspective in theory-imbued practices of identity and difference (always) already in place'.

[133] Ibid., pp14-15. Stephen White also renounces the 'advantages of a strong substantive theory' and asks what theoretical strategies might be pursued after having done so. White *Political Theory and Postmodernism*, p122.

Second, while Connolly and White in particular make valuable contributions to clarifying the tension between traditional normative projects and the Difference commitment to subverting normative ideals, the response to this tension of all three theorists (Young's in particular but to a lesser extent Connolly's as well) runs the risk of being locked into an oppositional form of thinking which remains limited by the epistemic constraints of the traditional normative theory it criticises. In particular Young characterises her approach to normative theorising in opposition to what she presents as the 'traditional effort to transcend that finitude toward a universal theory' and to construct 'definitive demonstrations', an approach which presents as trying to 'escape the appearance of contingency usually by recasting the given as necessary', as 'positivist social theory ... which separates social facts from values, and claims to be value-neutral'.[134]

A distinction can be made between political theory which derives fundamental impetus from *opposition* to pre-existing forms, institutions and oppressions, and theory which seeks to respond creatively to the status quo – a response which I argue below is best conceived as grounded in receptive attention and responsive judgment. A passage in Simone Weil's *Gravity and Grace* boldly captures this distinction:

> Why is the determination to fight against prejudice a sure sign that one is full of it? Such a determination necessarily arises from an obsession. It constitutes an utterly sterile effort to get rid of it. In such a case the light of *attention* is the only thing which is effective, and it is not compatible with a polemical *intention.*[135]

By rejecting existing philosophical, metaphysical frameworks, without replacing them with any positive, philosophically vindicated alternative, and by identifying theory as a form of 'immanent critique', as a contribution to situated dialogue, this theorising deprives itself of the philosophical grounds

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[134] Young, *Justice and the Politics of Difference*, p5.

[135] Simone Weil, *Gravity and Grace*, p49.

it requires to claim to stand as presenting substantive conceptions which pertain to what is the case, or to use Heideggerian language, which disclose what is there.

Further, disavowal of affirming a substantive metaphysics, and hence of making substantive claims to truth, deprives normative theory of the conceptual resources needed to make substantive claims concerning trans-cultural or universal commonality. It also strips theory of the resources needed to account for the possibility of that which transcends cultural boundaries, the possibility of transcendence of socially- and culturally-bounded meanings, and hence, resources needed to ground an account of trans-cultural justice in un-coerced, communication and understanding.

As I have suggested above, a (substantive) theory of trans-cultural justice must make positive substantive claims about human commonality, which would suggest at least implicit commitment to a conception of the good. Nevertheless, such a theory need not also at the same time endorse universal adherence to such a universal conception (as I have argued is implicitly required by social-contract approach). As I argue below, the core commitments of both the Dignity and the Difference approaches can be sustained by a theory which defends *only limited authority of such conceptions*, while endorsing the potentially universal scope of their substantive realisation.

Eschewal of metaphysical foundations also has detrimental consequences for the practice of normative political thought itself.

First, Young's characterisation of the task of the political theorist at least implicitly ties the validity of arguments and ideals defended to situated dialogue – thus tying the validity of what begins as a theoretical discourse to the outcome of political practice. This would seem to invert the traditional theory/practice hierarchy, handing authority to legitimate a political theory over to the realm of political practice. In the light of the ontological framework proposed below, which embeds political philosophy within the Lifeworld, and views it as one of a vast network of interdependent yet autonomous vital spheres of practice of equal moral and political significance, I argue that Young's approach blurs the boundaries between authoritative standards within autonomous (yet interdependent) spheres of

(academic) political thought on the one hand and realms of political practice on the other. Undermining these boundaries undermines the autonomy and integrity of each sphere, and in the light of the proposed ontology, weakens the vital role each can play in fostering capacities identified here with autonomy.

I argue in the following two chapters that the most adequate response to historicist insights and pluralist commitments which point to the cultural-relativity of truth is not to disavow truth and metaphysics, but to construct an ontological and metaphysical framework which fully addresses these insights and commitments. Further, a theory which pursues the task of defending a conception of autonomy and justice in the light of a positively conceived ontological and epistemological framework can be defended in the light of the Difference perspective, if it can be shown that the ontological and epistemic framework employed does express commitment to creating spaces for the appearance of otherness, to dislodging dominant ideals, understanding and cultural-forms generally.

I identify one other objection to characterising normative thought simply as a form of 'rational discourse' which awaits others' responses:

While Young does suggest that her theory seeks to engage with others, 'await[ing]' their 'response', and hence does not seek to impose the standards of rationality of normative theory upon other political discourses, her theorising does not explain how this communication might take place - without, that is, implicitly appealing, by default, to the authority of existing standards of reason employed to construct the theory.[136] Young does

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[136] Further, while Young is critical of the representationalist, object/subject oriented epistemology which informs this theorising, and seeks to highlight the social constitution of human values, and affirm alternative ideals of subjectivity (ie as socially embedded) and social goods, by not addressing the deep ontological and epistemic issues which inform traditional normative theory, her work falls short of fully addressing the difference critique: her theory, by default, still trades in the currency of normative ideals of

embrace 'rational discourse about justice' and 'some modes of reflection, analysis and argument' associated with it. However, her account does not explain how the form of 'rational discourse' pursued at the level of professional, academic, political theory can be meaningfully interpreted by those not well-versed in this discipline. Consequently it would seem to be open to the charge of privileging a particular form of discursive reason – one of the very things her theorising sought to avoid.

Having argued that a persuasive account of autonomy which can stand as vindicated as the commonality needed to realise trans-cultural justice, and must employ a metaphysical framework which also addresses the Difference perspective, I turn now to consider how the proposed theory might best respond to Young's critique of the prevailing liberal ideal of impartiality.

Rethinking Impartiality

As we have seen above, Young rejects the dominant (Kantian) ideal of impartiality characterised as requiring that a universal point of view be adopted that is emptied of all particularity. Young nevertheless argues that this does not entail a rejection of moral reflection per se: moral reason does require 'the ability to take some distance from one's immediate impulses, intentions, desires and interests so that these can be considered in relation to the demands of others'.[137] She defends an alternative ideal, beginning with the observation that the liberal ideal of impartiality assumes an inappropriate dichotomy: *either* egoism, where the agent considers only what will best promote his or her own selfish desires and goals, *or* impartiality, where the agent reasons from no particular point of view, the point of view of universal reason. She argues that here partiality is wrongly identified with selfishness, and to explain how the subject can move away from egoism, the

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subjectivity, institutions etc., however sympathetic these may be to the defense of difference.

[137] Young, *Justice and the Politics of Difference*, p105.

Enlightenment perspective constructs the 'counterfactual universal abstraction' of the 'view from nowhere'. Egoism can instead be overcome through concrete encounters with others 'who demand that their needs, desires, and perspectives be recognized'.[138]

Young defends a dialogic conception of reason and justice derived from Habermasian communicative ethics. In *Inclusion and Democracy* she develops a normative ideal of 'inclusive political communication'. This aims to address some of the biases within political conceptions of communication which can lead to forms of 'internal exclusion', by reducing communication to argument – 'the making of assertions and proposals, and providing reasons for them that they claim ought to be acceptable to others'.[139] Young argues that focus on argument, can assume shared premises which are not always present in situations of political conflict. Further, norms of 'articulateness' associated with argument, (ie of linear reasoning, making explicit logical connections, norms of orderliness and dispassionateness) can serve to undermine contributions of those whose communicative norms differ.[140] To supplement prevailing normative ideals of public deliberation, she offers three practices which 'aid the making of argument and enable understanding and interaction in ways that argument alone cannot': first, the use of 'greeting' or 'public acknowledgement'; second, the affirmative use of rhetorical aspects of communication, (emotional tone, figures of speech, use of non-spoken devices, and responsiveness to the particularity of one's audience); and third, the use of narrative, story-telling.[141]

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[138] Ibid., p106

[139] Young, *Inclusion and Democracy*, p56. In contrast to *external* forms of exclusion which either purposely or inadvertently leave individuals and groups out of decisionmaking, *internal* exclusion occurs when people are formally included in a forum or process, but find that their claims are not taken seriously, or feel that they are not treated with respect. 'The dominant mood may find their ideas or modes of expression silly or simple, or not worthy of consideration'(p55).

[140] Ibid., pp6-7, 56-57.

[141] Ibid., pp57-77

While I agree that reconceiving public deliberation and communication to embrace these communicative strategies represents an important step towards more inclusive normative ideals of deliberative practices, it remains that fundamental to achieving understanding between different others is the capacity of partners in dialogue to overcome their *own* preconceptions and prejudices, and 'enlarge' their 'mentality' to embrace the others' points of view.

Young asserts that '[a] selfish person who refuses to listen to the expression of the needs of others will not himself be listened to'.[142] And further

> If normative reason is dialogic, just norms are most likely to arise from the
> real interaction of people with different points of view who are drawn out
> of themselves by being forced to confront and listen to others.[143]

She concludes that just decisionmaking structures must, consequently, be democratic, 'ensuring a voice and vote for all the particular groups involved in and affected by the decisions'.[144]

Young's appropriation of a Habermasian dialogic view of impartiality would seem to address her suggestion that justice entails moral reflection as engagement between all parties affected, in which each is able to express their needs and interests in their own voice. Further, her broadening of a normative ideal of a deliberative reason, begins to identify the forms of dialogue which must be embraced if expressions of needs and interests are to

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[142] Young, *Justice and the Politics of Difference,* pp106,105. For Young's critical evaluation of
   Habermas's communicative ethics see pp116-121.
[143] Ibid., p116.
[144] Ibid.

be heard by different others.[145] The dialogic view of moral reason would also seem to open up a space in which unconscious aversions can be challenged by those who experience these as oppressive and disrespectful.

I suggest, however, that Young's account of deliberative reason still falls short of explaining how justice (ie dispute resolution through communication rather than appeal to force) can be achieved in pluralist contexts, as it does not explain how direct engagement with different others enables one to critically evaluate and if necessary overcome one's existing preconceptions, prejudices, or culturally-particular understandings when confronted with the new and different. In particular, it does not explain how the deep-set prejudices or the 'egoism' which is lodged at the level of the 'basic security system' can be overcome: Young's account of how this engagement might achieve trans-cultural understanding resembles at times an account of confrontation rather than communication, appealing to threats of exclusion or force to explain why participants who might otherwise disregard the needs and values of others might be induced to listen.[146]

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[145] See also Benhabib, 'Judgment and the Moral Foundations of Politics in Hannah Arendt's Thought', pp136-137 who defends an Arendtian appropriation of the Kantian ideal of enlarged mentality for discourse ethics.

[146] Similarly, acknowledging that when power over resources, as well as other material interests are at stake, there will be resistance on the part of minorities to recognising the rightful claims of minorities, Benhabib responds that in such cases 'deliberative processes do not obviate the need for democratic struggle through demonstrations, sit-ins, strikes, catcalls, and blockages'. She does not look to the deliberative process, but rather to political struggles to gradually build new coalitions and shift the sympathies of the minority. To be fair though, she also takes Mellissa Williams' point that 'the justice of deliberative outcomes depends not only upon participants exhibiting the virtues of open-mindedness and mutual respect … but also upon their possessing the virtue of empathy, and of giving marginalized-group claims the particular advantage of their empathy'. Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era*, pp141-142 quoting Melissa Williams, 'The Uneasy Alliance of Group Representation and Deliberative Democracy', *Citizenship in Diverse Societies*, eds. Will Kymlicka and Wayne Norman, Oxford University Press, Oxford, 2000, p138.

In the light of Young's and Kristeva's penetrating accounts of the unconscious blocks to an individual recognising and overcoming prejudices which serve to bolster his or her identity, an account of justice founded on communication between unfamiliar, even hostile parties to a dispute, must, at minimum, explain how an individual might find the resources to overcome these prejudices when confronted with them in face-to-face dialogue with the others. I have suggested above that a revised version of the Kantian capacity for 'enlarged mentality', traditionally associated with impartiality and reason is required: as Kant vindicates reason as a faculty which can explain how prejudices held at the level of thought can be overcome, and hence potential communication take place, given human plurality, a contemporary account autonomy/practical reason must (also) explain how prejudices lodged and experienced at the level of sensation and feeling can be made conscious, critically evaluated and if necessary revised, so that the possibility of actual communication (as distinct from mere expression) taking place between different others can be explained. On this view it would seem that the Difference perspective requires a more demanding, more critical account of impartiality than the account traditionally associated with liberal thought.

Summary and Conclusion

In the second half of this chapter I have drawn together core concerns and commitments which in some cases sit quite uncomfortably together, and collected them under the heading of the Difference perspective. I have identified this approach to political thought with a wariness towards meta-narratives (ideals of impartiality and moral reason in particular) and sensitivity towards the oppressive implications of these for members of minority groups and colonised people(s). I have characterised this stream as centrally committed to projects of subversion, deconstruction and critique, but have also considered the work of Young and Connolly who to a greater or lesser extent have sought to engage positively with, rather than shy away from the 'paradox of ethicality'. Informed by an ontological and epistemological orientation which proceeds from the lived experience of human beings, (ie as distinct from the Dignity perspective which proceeds from normative ideals and conceptions of the good, and employs a representationalist view of language) this perspective is also attuned to the

often unconscious prejudicial behaviors and attitudes which contribute to minority-group oppression.

In spite of wariness of construction of positive normative ideals within this perspective, respect can be identified with a form of action or 'mode of comportment' which begins with listening to and opening up spaces for the appearance of the Other, new or different. With the same caution, justice within pluralist contexts can be understood to require engagement between different others in which each party's relevant concerns, commitments, needs and values can be expressed in ways that are true to their own culture particular meanings, and listened to respectfully. While some commonality is required in order to sustain pluralist democratic order through communication rather than coercion, this commonality cannot be understood to be fundamental to public reason or impartial judgment; no pre-existing shared normative ideals of justice or other trans-cultural standards can simply be presupposed.

I have characterised the contrasting Dignity perspective as focussed on justification of moral and political principles. Normative ideals of the good, of subjectivity, of reason – of what makes us worthy of respect – are central here. It is evident from debates within the contemporary Rawlsian stream of the Dignity approach to political thought, that justification of liberal moral or political order can not eschew appealing to at least implicit normative ideals of the good and reason. In recognition of cultural diversity, however, the most persuasive liberal theory will employ maximally-capacious assumptions concerning human commonality, of sufficient determinacy to account for the possibility of non-coerced social order. This requires that the social-contract model of justification, which must assume that discursive reason is held in common by all affected parties if principles of justice defended are to have substantive application in practice, must not be employed.

I have argued that the so-called 'impasse' reached within this stream between core liberal commitments to accommodation and personal autonomy can, in the light of Kant's vindication of reason, be reinterpreted: as Kant saw, moral autonomy is the answer to the problem of achieving egalitarian moral order, given plurality; within a social order which seeks to

embrace (or accommodate) human plurality rather than repress it, some form of autonomy/practical reason must be assumed to be held in common.

I have argued that while the Dignity approach to political thought focuses on the project of legitimating ideals of justice and human rights by appealing to universalist conceptions of the good and reason, and while the Difference approach is, in the first instance, centrally committed to subverting such ideals, it is nevertheless possible to address both sets of core commitments within a single theory of autonomy and transcultural justice: in spite of the hostility towards 'metanarratives' and primary commitment to projects of subversion and deconstruction, there is space within the Difference stream of thought for pursuing the task of constructing a philosophically vindicated account of transcultural justice, but only if minimally-determinate, maximally-capacious human commonality is presupposed to do so, and an ontological and epistemological framework is employed which demonstrates commitment to opening up spaces for the appearance of the other, new and different. Further, an ontological and epistemological perspective is required which can explain how members of different cultures can transcend their own socio-culturally conditioned understandings and communicate with different others.

Consideration of the core commitments within the Dignity and Difference streams uncovers shared concerns to reconcile, on the one hand, emancipatory commitments (ie to promoting autonomy, and to opening up spaces for the appearance of the Other) which, albeit implicitly, affirm particular conceptions of the good, with, on the other, commitments to embrace and accommodate plurality and difference. I have argued that the most adequate philosophical response to both sets of commitments will be to construct a minimally-determinate, maximally-capacious account of autonomy, and embed this within an ontological and epistemological framework which is fundamentally grounded in that which transcends cultural forms, and hence can demonstrate commitment to opening up spaces for the appearance of the other.

I turn now to focus more closely on the deeper, contrasting ontological and epistemic commitments underlying the Dignity and Difference streams. In the following chapter I identify Kantian grounds for embracing both sets of

commitments, within the proposed, maximally-capacious conception of autonomy.

Chapter 4: Responsibility to Act and to Otherness; Action-Coordination and World-Disclosure

In Chapters One and Two I introduced the two-part structure of Kant's accounts of autonomy, aesthetic judgment and the judgment of genius to be employed within the proposed theory of autonomy. This structure consists of first and most fundamentally, an unconditioned component, and second, deriving authority from this, a component which explains how shared authoritative standards are possible. In the present chapter I delve more deeply into the contrasting ontological and epistemic commitments which underlie the Dignity view of justice as a process of adjudication from shared, authoritative principles, and the Difference view of justice as proceeding from listening to the Other and receptive engagement. I draw here on a distinction Stephen White makes between a sense of 'responsibility to otherness' shared by 'most radical postmodern thinkers' and associated here with the Difference perspective, and the Dignity sense of 'responsibility to act' 'in the world in a justifiable way' which White identifies with 'dominant western styles of ethical and political thought'. These two commitments correspond to two contrasting ontological and epistemological orientations, the first primarily concerned with language's world-disclosing functions, the second with language's 'action-coordinating' functions.[1] I argue that White's distinction reflects the two-part structure I have identified with Kantian autonomy. This paves the way towards constructing an epistemological and ontological framework and account of autonomy/practical reason with which to address both sets of contemporary commitments.

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[1] White *Political Theory and Postmodernism*, pp19-21,22-28.

'Responsibility to Act' and 'Responsibility to Otherness'

In his *Political Theory and Postmodernism* Stephen White addresses the 'deep and recurrent tension between post-structuralism and traditional modes of ethical-political thinking', drawing out the ontological and epistemic problems which arise when engaged in ethical-political reflection strongly informed by post-structuralist critiques. He argues that the complex and difficult questions which must be addressed here can be satisfactorily resolved neither by seeking to 'render the insights of post-structuralism directly into the various idioms of traditional ethical-political reflection', nor by retreating into a thoroughly post-structuralist approach effectively dominated by a 'perpetual withholding gesture'. He seeks instead an approach which 'would allow both voices expression'.[2]

Responsibility to Act

White identifies the traditional, foundationalist approach to political thought referred to above as the Dignity stream, with a sense of responsibility to act: a 'moral prudential obligation to acquire reliable knowledge and act to achieve practical ends in some defensible manner'. This sense of responsibility 'derives from the character of being in the world both physically and politically: from the need to survive physically, to avoid harm, to conform to time constraints, to realize certain values, and to meet expectations of others'. It is concerned with the world we hold in common with others, so that we can, amongst other things, project into the future and engage individually and collectively in various pursuits. [3]

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[2] Ibid., pp13-14,19. White argues that the former strategy implicates the theorist in the implicit authoritarianism of 'logocentric' thinking, effectively demanding that post-structuralists gives 'an account of themselves so that we could "discipline" them in such a way as to make them more pliant contributors to our basic, traditional tasks… thereby engaging in an imperialistic project of forcing post-structuralism to speak our traditional language' and accommodate itself to standard, foundational distinctions: rational/irrational, legitimate/illegitimate, etc. (p14)

[3] Ibid., pp20-21. White argues that modern thinking associates this sense of responsibility with moral uprightness or pragmatic effectiveness

Responsibility to Otherness

White identifies the moral-aesthetic sense of responsibility to otherness with (only) those poststructuralists who display commitment to more than a merely anti-foundationalist project of exposing 'an arbitrary will and radical contingency' underlying modernist ethical and political thought. White follows William Connolly here and identifies post-modernism/structuralism with the work of 'most radical postmodern thinkers' such as Foucault and Derrida who pursue intellectual strategies which 'bear witness' to the dissonance which arises because modern cognitive machinery's harmonising, unifying and clarifying tendencies always exclude, devalue and discipline the other.[4]

Responsibility to Otherness and Merely Anti-foundationalist Post-Structuralism

White makes an important distinction between poststructuralist theorists whose work expresses this sense of responsibility to otherness, and mere anti-foundationalists 'such as communitarian political theorists or philosophers like Rorty'. White characterises the anti-foundationalist theorist as agreeing with the post-structuralist critique that all idealisations are fictions, admitting the 'Nietzschean message of the presence of arbitrary will and radical contingency where once there were thought to be foundations'. However, in contrast to theorists such as Foucault, who are committed to exposing the experience of discord which arises when dominant normative values close off opportunities for the appearance of the Different and other, the anti-foundationalist theorist at this point quickly averts his attention, 'preferring instead to admire the peculiar coordinating

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[4] Ibid., pp19 -20. White argues that ethical and political theory moved primarily by this sense of responsibility goes beyond traditional moral reasoning and seems to involve 'deeply aesthetic qualities'. See also Connolly, 'Michel Foucault: An Exchange: 1. Taylor, Foucault, and Otherness', p368.

force of language as it functions in a given social context'. For more radical post-structuralists such as Foucault, this 'willful forgetting of will and contingency, allows us to settle too comfortably into the 'soft collar' of our community's traditions'; appeals to the 'soft' coordination of common meanings become 'garrottes' in Foucault's hands as he employs metaphors of punishment and warfare to expose the oppressive, constraining force of the shared, dominant meanings, and invites us to glimpse this world of common meanings in a radically different way.[5] With Connolly, White argues that only those theorists who engage with, rather than cover over the 'paradox of ethicality', who stay alert to the silencing or oppressive implications of normative ideals within any context, however familiar or cherished, demonstrate commitment to responsibility to otherness.

The distinction between responsibility to otherness and responsibility to act is strongly associated with the ontological and epistemic distinction between the contrasting world-disclosing and action-coordinating functions of language.

Action-coordinating and World-disclosing Functions of Language

In the preceding chapter I presented Heideggerian ontology and the phenomenological notion of the Lifeworld as opening up a conceptual space for the critique of identity/difference.[6] This is an ontological and epistemological framework which embraces embodied, lived experience, and

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[5] White *Political Theory and Postmodernism*, p27. See also Connolly, 'Michel Foucault: An Exchange: 1. Taylor, Foucault, and Otherness', p368.

[6] It must be noted that Heidegger's critique of the western, metaphysical approach to questions of ontology, makes it awkward to speak of an Heideggerian 'ontological perspective'. Heidegger's concern is with the experience of entities such as ourselves, for whom the question of being, is an issue (ie Dasein). He takes issue with western metaphysics, which he argues overlooks the question of being, concerned as it is with the being of beings. Martin Heidegger, 'Being and Time', *Martin Heidegger, Basic Writings*, ed. David Krell Harper & Row, New York, 1977, pp53-58.

opens a door to recognition of that which always escapes the forms, structures, normative labels given to this experience. For similar reasons, White argues that poststructuralism identified with responsibility to otherness, also requires a view of language which admits its capacity to open up or 'disclose' that which transcends the bounds of normative representations of object/subject relations. White identifies this view as one which admits the world-disclosing function of language.

The distinction between language's world-disclosing and action-coordinating capacity can be traced to Derrida's attack on the focus within the work of J.L. Austin and John Searle on how language, in the form of speech acts, allows us to do things in the world; on how, for example, saying 'I promise' constitutes making a promise under certain conditions. Austin refers to the capacity of speech acts to coordinate our interaction under normal, conventional conditions as 'illocutionary force'. Derrida criticises this view of language arguing that the conventional conditions for normal speech usage, being inexhaustibly open textured, can never be clearly delineated. He also criticises the Austin-Searle, Anglo-American analytical tradition for constructing distinctions between normal/abnormal, literal/figurative, serious/fictive language-use where the former is viewed as the proper or main function, the latter derivative.[7]

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[7] To illustrate this dualistic hierarchy within Austin's theory of language Derrida quotes from Austin: 'as uttereances our performatives are *also* heir to certain other kinds of ill which infect *all* utterances. And these … we are deliberately at present excluding. I mean, for example, the following: a perfomative utterance will, for example, be *in a peculiar way* hollow or void if said by an actor on the stage, or if introduced in a poem, or spoken in soliloquy… Language in such circumstances is in special ways – intelligibly – used not *seriously* [Derrida's italics], but in ways *parasitic* upon its normal use'. Jacques Derrida, 'Signature Event Context', trans. Alan Bass, *Margins of Philosophy* University of Chicago Press, Chicago, 1982, pp324-325, quoting J.L. Austin, *How to Do Things with Words* Oxford University Press, New York, 1962, pp21-22.. . Derrida argues that if language is as open-textured as he claims then 'normal' speech is better viewed as a variant or special case of abnormal speech, or more provocatively, 'serious speech is merely a special case of fictive speech'. White *Political Theory and Postmodernism*, p23.

Austin's notion of illocutionary force is subsequently taken up by Habermas who, reflecting his commitment to 'responsibility to act', employs it to identify the limitations or conditions which must obtain if everyday speech acts are to have an 'action-coordinating force' and 'release action-relevant consequences'. Habermas employs a distinction between speech that has illocutionary force, and the poetic use of language. In the latter the system of validity claims underlying illocutive acts is suspended.

> Neutralizing their binding force releases the disempowered illocutionary acts from the pressure to decide proper to everyday communicative practice, removes them from the sphere of usual discourse, and thereby empowers them for the playful creation of new worlds – or rather, for the pure demonstration of the world-disclosing force of innovative linguistic expressions.[8]

White argues that 'political reflection pursued under the pull of the responsibility to act in the world will generate cognitive machinery attuned to problems of action coordination'; reflection 'pursued under the pull of responsibility to otherness will use the world-disclosing capacity of language to loosen the hold of that machinery as well as of the dominant modes of identity and action coordination connected with it'.[9]

The contrast which White draws here between the world-disclosing and action-coordinating capacity of language corresponds closely to another important Heideggerian distinction noted earlier between, on the one hand, a propositional or representational view of language and propositional

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[8] Habermas, *The Philosophical Discourse of Modernity: Twelve Lectures*, p201; White *Political Theory and Postmodernism*, pp24 -25,

[9] White *Political Theory and Postmodernism*, p28.

knowledge, and on the other, a world-disclosing view of language, associated with 'knowledge of acquaintance'.[10]

The Representational View of Language and Propositional Knowledge

In his monumental study of the evolution of our understanding of truth within western philosophy Richard Campbell identifies the propositional view of language and knowledge with a linguistic model which prevails within analytical philosophy and can be traced back to Locke. Here language is perceived principally as the vehicle we use to stand apart from the world and the objects within it, in order to represent them (ie as objectively or rationally as possible). According to this model, when an assertion is made, the speaker is viewed as first having a thought, and then as selecting a comprehensible linguistic expression of it, with the intention of getting the hearer to accept and share that proposition. Assertions here *are not* viewed as concerned, at least in the first instance, with the things themselves, but rather, with the relationship between a concept or thought and its linguistic representation. Accordingly, when a truth claim is made, the orientation or focus is toward the truth of the proposition and its discursive content, rather than that which is being pointed out, disclosed or

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[10] Campbell, *Truth and Historicity*, pp424-428. Campbell maintains that Heidegger provides 'the only coherent way of understanding that what we find in the world are phenomena, that is, things which show themselves in some guise' (p427). See also Heidegger, 'Being and Time', pp74-79.

spoken about.[11] Within this framework linguistic assertions are viewed as the primary locus of truth.[12]

The World-Disclosing View of Language and Knowledge of Acquaintance

In contrast, a world-disclosing view of language views the truth of an assertion as pertaining, most fundamentally, to that which simply is. Here truth indicates 'knowledge of acquaintance'. Whereas a propositional view of language is concerned with the truth of the *assertions*, a successful world-disclosing act of assertive speech is one which serves to orient us towards how things are, to disclose what is there.[13]

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[11] Campbell, *Truth and Historicity*, p353; Martin Heidegger, 'The Way Back into the Ground of Metaphysics', *Existentialism from Dostoevsky to Sartre*, ed. Walter Kaufmann, Meridian Books, New York, 1956, pp210,212. Here Heidegger identifies propositional or representational thinking with 'metaphysical' thinking – limited to concern with beings: 'Being metaphysics, it is by its very nature excluded from the experience of Being; for it always represents beings … only with an eye to what of Being has already manifest itself as beings..'. (p218).

[12] In *Being and Time* Heidegger writes that *logos*, as making manifest 'what is being talked about in speech', as 'letting something be seen', makes it possible to make distinctions between true and false. However, the 'being true' of logos primarily concerns disclosure. Because 'truth' has this meaning, and because *logos* is a specific mode of letting something be seen, '*logos* simply may not be acclaimed as the primary 'place' of truth'. Heidegger, 'Being and Time', pp80-81. In a later essay he revises this earlier suggestion that truth be equated with disclosure or *aletheia*, 'unconcealment thought of as opening', and suggests that rather, that disclosure be viewed as granting the possibility of 'truth'. Martin Heidegger, 'The End of Philosophy and the Task of Thinking', *Basic Writings, Martin Heidegger*, ed. David Krell, Harper and Row, New York, 1977, pp388-389.

[13] Campbell observes that '[a] widely prevailing orthodoxy of twentieth-century philosophy – to which Heidegger is the only major exception – has been that truth is exclusively a feature of statements'. Campbell, *Truth and Historicity*, p395. Campbell concludes that investigation of the concept of truth within western philosophy reveals first, that this linguistic conception of truth 'drastically narrows down its scope' and second, that 'most philosophers in our own intellectual heritage have not restricted truth in this way'. While it is the proper concern of philosophical inquiry to consider in what the truth of *statements* consists, such a narrow compass does not allow the conceptual richness needed to satisfy all the explanatory demands still required of the concept. Consequences 'of this confining of truth solely to the logico-linguistic domain' are first, that 'the often sophisticated work

The sense of the distinction between views of language which locate truth and knowledge in assertions on the one hand, and in action on the other, can be readily grasped when considered in the light of our ordinary use of the predicate 'true': When we speak of true love, true friends and of being true to character, someone, or a calling, we are pointing to the truth of something which clearly transcends that which can be fully expressed, captured or contained in language (where this is identified with words) alone. Here, that which is true is located principally in action; more in the *experience* of friendship, love or character, than in the assertion about it. If we consider language from the point of view of the speech-act, the practice of language-use, and if the meaning of language is viewed as constituted through its use, then we cannot readily identify truth as exclusively a feature of statements, isolated from action and the context of action. When we speak of true friends, true love or true coins, this is not because, in some Platonic sense, the empirical phenomena approximate closely to those *concepts*, but rather, because of 'what they *do,* (and keep doing)'.[14]

Within the world-disclosing view of language, notions of correspondence and coherence give way to the idea of disclosure: neither a 'relation of agreement of knowing with its object' nor of the 'mental with the physical' are sought. Nor are representations compared, either among themselves, or with the real thing. Rather, a true statement indicates that 'what is demonstrated is that in this orientation towards the entity, it shows itself to be *just as* it was picked out as being.'[15] Heidegger writes in *Being and Time*:

> To say that an assertion "is true" signifies that it uncovers the entity as it is in itself. Such an assertion asserts, points out, "lets" the entity "be seen".. in

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of contemporary philosophers has become overwhelmed by its own technicalities' and second, the concept of 'truth' has consequently 'lost any vital connection with the deep problem of truth posed by the widespread disillusion with its value and validity' (p395).

[14] Ibid., p437.

[15] Ibid., p421

> its uncoveredness. The *Being true (truth)* of the assertion must be
> understood as a *Being-uncovering*. Thus truth has by no means the structure
> of an agreement between knowing and the object in the sense of a likening
> of one entity (the subject) to another (the Object). [16]

For example, in a simple case of verifying a previous statement by
perception, 'what perceiving the thing referred to demonstrates is nothing
else than *that* this situation *is* what the speaker had in mind in making the
assertion'. What gets shown is an identity: the situation which was described
by the assertion is the *same* as that being attended to; '[t]hat achievement is
what the truth of statements consists in'.[17]

This world-disclosing view of language reflects the Heideggerian focus on
our 'mode of comportment' within the world.[18] Accordingly, and as noted
earlier, discourse, language or thought itself is viewed here as a 'way in
which the world is experienced, disclosed or encountered'; language and
thought is viewed, fundamentally, as an event in which 'Being' is revealed
rather than one in which beings (or objects) are represented.[19]

In 'The Way Back into the Ground of Metaphysics' Heidegger argues that
because western philosophy – or 'metaphysics' always 'thinks about beings
as beings', always 'represents only beings as beings', it can not 'recall the
truth of Being' itself – that is, it 'does not recall truth as unconcealedness, nor
does it recall the nature of unconcealedness'. Instead the nature of truth
always appeas only in the derivative from of the truth of knowledge and the

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[16] Heidegger, *Being and Time*, p261

[17] Campbell, *Truth and Historicity*, pp421, 424; See also Caputo, 'The Thought of Being and the Conversation of Mankind: The Case of Heidegger and Rorty', p257.

[18] Heidegger describes 'Being–true as Being-uncovering' as 'a way of Being for Dasein' and as only possible on the basis of Being-in-the-World. Heidegger, *Being and Time*, pp263, 261

[19] Caputo, 'The Thought of Being and the Conversation of Mankind: The Case of Heidegger and Rorty', p256.

truth of propositions which formulate our knowledge'.[20]Language is not viewed as something which somehow stands over reality or the world, which is on a different level, above or separate from reality. Rather, it is *through* language that we orient ourselves and shape our reality. Here human beings, and consequently their discourses 'about' the world, are viewed as inexorably embedded within the world; human beings are themselves constituted by, or belong to the world which, from the point of view of propositional or representationalist thought, they seek to describe. As Caputo describes it, in the place of 'metaphysical representationalism' Heidegger proposes a 'topological model' according to which '[T]hought is not a "subject" standing over and against "reality" … or an "object"'. The view of language Heidegger presents is that it is not through language that we *represent* the world but rather we '*belong* to the world'.[21]

> When man speaks he is not verbalizing inner representations which correspond to outer objects, but letting things come to language in his talk.22

Anti-Foundationalist Thought which Does Not Address World-disclosure

We saw earlier that White makes an important distinction between, on the one hand, merely anti-foundationalist thought, which is critical of western philosophy's foundationalist projects, but pulls up short of keeping alive to the paradox of ethicality, and on the other, more radical thought which engages with the paradox of ethicality and seeks to open spaces for the appearance of the Other. A corresponding distinction must be made between the ontological and epistemological perspectives underlying both: between representationalist epistemology which reduces truth to warranted

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[20] Heidegger, 'The Way Back into the Ground of Metaphysics', pp207-211.

[21] Caputo, 'The Thought of Being and the Conversation of Mankind: The Case of Heidegger and Rorty', pp261,253,256.

[22] Ibid., p257.

justification, and an epistemological perspective which embraces that which is other than culturally-determined. This distinction is best clarified with the following two illustrations.

Rorty's Representationalist View of Language and Truth as Warranted Justification

In an essay entitled 'The Thought of Being and the Conversation of Mankind: The Case of Heidegger and Rorty', Caputo clarifies the distinction between Rorty's representationalist thought, which reduces truth to internalist claims to warranted-assertability, and Heideggerian ontology which admits language's world-disclosing function.

Caputo argues that Richard Rorty takes seriously and understands well Heidegger's anti-foundationalist stance which recognises human beings' inability to rise to an absolute standpoint and 'issue ahistorical declarations about what Being "is" as if there were no man'. Caputo takes issue however, with Rorty's conclusion that the only alternative to philosophy's traditional foundationalist ontological projects, is to 'swear off making ontological claims and frankly concede that we have to do only with a plurality of ontologically neutral language games'.[23] Rorty fails to recognise that the focus of Heidegger's critique is aimed, not at the task of pursuing questions of ontology *per se*, but rather at challenging western philosophy's uses of representational and propositional language and discourse. Heidegger addresses rather than evades questions of ontology, and his antidote to foundationalism is to shift the epistemological status of ontological claims.

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[23] Ibid., pp250-251. Martha Nussbaum provides a similar characterisation of the thorough-going relativism she ascribes to defenders of cultural difference. She attributes this position to a false, dualistic opposition made between a transcendent universalism on the one hand, and culturally-relative internalism on the other. She criticises those who seem to make 'an impossible' universalist demand for either an 'unmediated presentness to reality it is in itself' or 'universal agreement about matters of value'. On finding that these (impossible) demands can not be met, cultural relativists conclude 'that everything is up for grabs and there are no norms to give us guidance in matters of evaluation'. Nussbaum, 'Human Functioning and Social Justice, in Defence of Aristotelian Essentialism', p209.

> [H]is antidote to the correspondence theory is not *ontological* but rather *propositional* abstinence, that is to say, to give up propositional discourse as a form of "objectifying" thought.[24]

According to Rorty's contrasting view, spheres of human discourse can bear no metaphysical relationship to reality or world or being. Rorty writes in *Philosophy and the Mirror of Nature*

> ..objectivity should be seen as conformity to the norms of justification (for assertions and for actions) we find aobut us. Such conformity becomes dubious and self-deceptive only when seen as something more than this – namely, as a way of obtaining access to something which "grounds" current practices of justification in something else.[25]

Rorty takes issue with philosophical foundationalism not only because 'of the general absurdity of ultimate justification's reposing upon the unjustifyable' but also

> [b]ecause of the more concrete absurdity of thinking that the vocabulary used by present science, morality, or whatever has some privileged attachment to reality which makes it *more* than just a further set of descriptions.[26]

Caputo argues that for Rorty truth claims within spheres of discourse derive their authority merely from their relationship with other 'language games'

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[24] Caputo, 'The Thought of Being and the Conversation of Mankind: The Case of Heidegger and Rorty', pp252-253. For Heidegger the 'end of [foundationalist] philosophy poses the "task of thinking … of a meditative openness to a matter which has been progressively concealed yet concealedly present in the history of metaphysics". This is a hermeneutic task: 'to listen to the silent call of Being'. (p251)

[25] Richard Rorty, *Philosophy and the Mirror of Nature* Princeton University Press, Princeton, 1979, p361.

[26] Ibid.

and 'social practices'.[27] Expressed differently, the only reality that exists for humans is equated with the vast web of culturally-relative discourses and practices: if we are stripped bare of these, we are left with nothing.

The contrast between Heidegger's commitment to retaining ontological content within political thought, and Rorty's position of 'ontological abstinence', is brought into further relief by their contrasting understandings of the interpretive art of hermeneutics, in particular the idea of the Hermeneutic Circle. From an Heideggerian perspective the idea of the Hermeneutic Circle affirms that we always belong to the world, and we are always caught up in the historical sweep, 'thrown factical, historical', and our language is handed over to us by a tradition. Nevertheless, hermeneutics is the way to find what the tradition is saying to us *here and now*; it thus means listening to the voice of the tradition and to the voice of the *things themselves* as they speak to us in the tradition. It is hearing hitherto neglected possibilities. [28]

In contrast, Rorty views hermeneutics as being about weightless language games, 'the open-endedness of discourse, a resolve not to close off to innovative redescriptions of ourselves which are fresh and interesting'. While Rorty considers himself to be a proponent of hermeneutics viewed as 'a matter of keeping the conversation going, of listening to what is truly, genuinely, other', Caputo suggests that Rorty is *not* open to the genuinely other, at least within Heidegger's thought. Rorty misses the 'genuinely incommensurable' in Heidegger's thought: he 'hears only language games and social practice' and hence 'rejects Heidegger's call to go beyond a humanistic conception of thought and language'.[29]

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[27] Caputo, 'The Thought of Being and the Conversation of Mankind: The Case of Heidegger and Rorty', pp251-252.

[28] Ibid., p262.

[29] Ibid., p264.

Rorty characterises Heidegger (along with Gadamer and Sartre) as adopting an "existentialist" attitude toward objectivity and rationality where existentialism is viewed as 'an *intrinsically reactive* movement of thought, one which has point only in opposition to the tradition'. Rorty identifies 'essentially reactive' philosophy (in contrast to 'essentially constructive') with philosophy which takes its point of departure from suspicion about the pretentions of epistemology. He argues that the later Heidegger (with Goethe, Kierkegaard, Santayana, William James, Dewey and the later Wittgenstein) 'have kept alive the suggestion that, even when we have justified true belief about everything we want to know, we may have no more than conformity to the norms of the day'.

> They have kept alived the historicist sense that this century's "superstition" was last century's triumph of reason, as well as the realivist sense that the latest vocabulary .. [may be] just another of the potential infinity of vocabulariesin which the world can be described.[30]

Similarly Andre Gorz's and Richard Campbell's analyses of Jurgen Habermas' work indicate that Habermas does not embrace that which is other than the socio-culturally conditioned.[31] Following on from this, Habermas must also employ an account of truth, which reduces it to relations of coherence within realms of discourse; truth claims are reduced to claims of warranted justification. I introduce Habermas' account at some length here, as I compare my own appropriations of Kant, with Habermas', in Chapter Six.

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[30] Rorty, *Philosophy and the Mirror of Nature*, pp366-367.

[31] I rely heavily here on Campbell's account of Habermas' theory of communicative truth. Habermas' earlier formulations of this theory appear in his essays on communicative competence and on theories of truth (see for example Jurgen Habermas, 'Wahrheitstheorien', *Wirklichkeit Und Reflexion: Festschrift Fur W. Schultz*, ed. H. Fahrenbach Neske, Pfullingen, 1973) and later in The Theory of Communicative Action. For overview of this theory see also William Outhwait, 'Communicative and Discourse Ethics', *Habermas: A Critical Introduction* Polity Press, Cambridge, 1994.

Habermas's 'Truth' as Warranted Justification

Campbell's interpretation proceeds from a key distinction between 'discourse' and 'action contexts' within Habermas's account of the possibility of rational consensus: within action contexts people 'act and experience objects in the world' and the truth of propositions is simply presupposed.[32] Within discourse, validity of claims raised in action-contexts can be examined. Here arguments (ie as distinct from information) are exchanged to either ground or dismiss problematic 'validity-claims'.

The context of discourse in which consensual truth can be realised, is the 'ideal speech' situation. Here no form of domination exists: there is 'no other compulsion but the compulsion of argumentation itself', and genuine symmetry among the participants. In addition, all discourse implies a 'background consensus' which persists through reciprocal recognition of four kinds of claims speakers implicitly raise when engaged in speech-acts.[33] Thus for Habermas '[t]ruth is a validity-claim which we can put forward with statements, in which we assert them' but this truth-status can only be questioned within discourse.[34]

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[32] Campbell, *Truth and Historicity*, p340. Here assertions are understood to constitute pieces of information about experience with objects, and communication serves to 'announce experience'. While it is possible that our perceptions of our experience might be false, within this realm the truth of stated propositions is presupposed. Within action-contexts the possibility of error is not discussed: a statement here *implies* a truth claim.

[33] Ibid., pp341,346. These background claims are: first that an utterance is intelligible; second, that the presuppositions presupposed in it are true; third, that it is appropriate for the speaker to make it, and; fourth that the speaker is truthful and being honest. These implicit claims are only discussed when the utterances made do not appear to participants to be compatible with their experience. (p341)

[34] Ibid., p342, quoting from Habermas, 'Wahrheitstheorien', p212. Outhwait also observes that Habermas analyses truth here as a 'validity claim', which Habermas distinguishes from correspondence theories of truth. Habermas writes that 'Ontological theories of truth attempt in vain to break out of the linguistic (*sprachlogisch*) domain which is the only place where the validity claims of speech acts can be clarified' Outhwait, 'Communicative and Discourse Ethics', p41 quoting Jurgen Habermas, *Vorstudien Und Erganzungen Zur Theorie Des Kommunikativen Handelns* Suhrkamp, Frankfurt, 1984, p105. (Outhwait's translation)

Within action-contexts the same statements which might be contested within discourse are uncritically accepted. Here statements serve to bring expression to an experience.[35] In contrast, within discourse, thoughts *about* experiences and objects can be determined as being true or false. Habermas writes that "[t]houghts about objects of experience are not the same as experiences or perceptions of objects".[36] While experience can be cited in relation to an argument, Habermas nevertheless makes a clear distinction between 'asserting a state of affairs' and experience:

> By asserting a state of affairs, I precisely do not assert an experience (which is objective); I can only draw upon structurally analogous experiences as data in an attempt to legitimate the truth claim embodied in my statement. Truth *qua* justification of the truth claim inherent in a proposition does not reveal itself, like the objectivity of experience, in feedback controlled action, but only in a process of successful reasoning by which the truth claim is first rendered problematic and then redeemed.[37]

While experiences may support the truth claim of assertions, truth-claims can be redeemed only through argument: 'A claim *based* on experience is in no way a *grounded* claim'; and further, 'We call statements true which we are able to substantiate (*begruden*)'.[38]

Campbell argues that consequently the word 'true' (and also, for Habermas, the words 'fact' and 'state of affairs') belongs to the logico-linguistic sphere, its meaning tied to the meaning of 'redeemable discourse'; more specifically,

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[35] Campbell, *Truth and Historicity*, pp340, 342.

[36] Ibid., p342, quoting Jurgen Habermas, 'Postscript to Knowledge and Human Interests', trans. J Shapiro, *Human Knowledge and Interests* Heinemann, London, 1972, p217.

[37] Campbell, *Truth and Historicity*, p342, quoting Habermas, 'Postscript to Knowledge and Human Interests', p364.

[38] Campbell, *Truth and Historicity*, p343 quoting Habermas, 'Wahrheitstheorien', pp218,219. On the other hand, claims to *truthfulness* can be redeemed only in action-contexts (ie not discursively). (p341). See Habermas, 'Wahrheitstheorien', pp221-222.

to the context of discourse.[39] Truth is dependent on the social circumstances under which assent is justified; truth may be only ascribed to those statements or theories capable of commanding an unforced consensus. While Habermas has worked out in a 'remarkably rigorous fashion what a consensus theory of truth has to involve', and has shown that the validity-claims to such a claim to truth can only occur in a social setting also characterised by freedom and justice, his account may after all, fail to be compelling. For Habermas presupposes that 'truth is a feature of *propositions* which occur either as the content of statements or as presuppositions in communicative action' – from the point of the philosophical tradition, a relatively recent and contentious assumption.[40] Here Habermas is also assuming that the *telos* of human speech is reaching understanding – rather than, for example, that communication's basic function might be the Heideggerian notion of world-disclosure: 'letting someone see with us what we have pointed out', the 'disclosure of entities through which an openness unfolds'.[41]

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[39] Campbell, *Truth and Historicity*, pp343, 344.

[40] Campbell observes that most modern philosophers analyse 'truth' in terms of the use of the predicate truth as applied to judgments, propositions and sentences. This contrasts sharply with the Platonic tradition in which 'truth is assigned primarily to reality'. In the latter truth has ontological significance. Ibid., p121.

[41] Ibid., p352. The extent to which Habermas has identified 'the communicative practice of everyday life' with achieving understanding and making validity claims, is evident in his reply, as a moral theorist, to the moral sceptic's challenge to the transcendental-pragmatic strategy of justification. Habermas argues that the consistent sceptic may try to deprive the transcendental pragmatist of a basis for his argument by refusing to engage in philosophical argumentation. He responds to the sceptic by pointing out that by refusing to engage in argument, the sceptic may have terminated his membership in a community of beings who argue, but the sceptic can not deny ('unless he is willing to take refuge in suicide or serious mental illness'), that he still moves in a shared sociocultural form of life to which is 'at least implicitly geared to maintaining communicative action by means of argument'. '… in reaching an understanding about something in the world, subjects engaged in communicative action orient themselves to validity claims...'. There is 'no form of sociocultural life' that is not geared towards such claims. Habermas, 'Discourse Ethics: Notes on a Program of Philosophical Justification', pp99-100.

The key problem here is that Habermas is concerned with the truth of statements which belong exclusively to the logico-linguistic sphere, exhibiting the rationalist bias of giving priority to discursive, propositional knowledge over knowledge of acquaintance. In spite of Habermas' focus on the use of language in action-contexts, the speech-act model he employs assumes that the speaker first has a thought, then selects a comprehensible linguistic expression with the intent of getting the hearer to accept and share that proposition. That is, truth is a property of the claims raised by making statements justified by discursive argument.

> Paradoxically it emerges that Habermas's universal pragmatics has adopted an analytical model of speech which takes insufficient account of the grounding of meaningful speech in action-contexts.[42]

This view of language is reflected in Habermas's distinction between discourse and action-contexts, and stipulation that within the former all facts and norms are regarded as hypothetical, divorced from background assumptions, the 'sea of interaction' in which we are always immersed. As Campbell argues, while a well-tested consensus will warrant the *ascription* of truth to certain statements, there is a conceptual gap between this consensus and the 'disclosure of Being' – which is not thereby bridged – and can not be so long as we remain in the logico-linguistic sphere which treats all facts and norms as hypothetical. This '"bracketing" of validity-claims, as discourse requires, necessarily *abstracts* from that interaction with reality which could yield a disclosure of Being'. When the reaching of understanding is thus 'reduced to the attaining of (rationally motivated) assent to the content of utterances', the sense that truth indicates 'being put in touch with what is being pointed out', an 'encounter with how things are' is not *actually* secured.

> One has only established what to *say*. An encounter with how things are requires a kind of openness which is only given in an action-context. [43]

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[42] Campbell, *Truth and Historicity*, p353.

Habermas consequently employs a view of truth, which reduces it to 'warranted-assertability'.

Gorz's Critique of Habermas' Sociological Conception of the Lifeworld

Grounds for holding that Habermas must adhere to a conception of truth which does not embrace that which transcends socio-culturally conditioned forms, and hence reduces truth to warranted assertability, are also found within Gorz's critique of Habermas' examination of the 'communicational infrastructure' in which the 'symbolic reproduction of the Lifeworld is rooted'.[44] Gorz argues that Habermas' focus on explaining the reproduction of the Lifeworld, means that Habermas is concerned not with human activities as 'practices lived and maintained by subjects', but rather from the point of view of their *function of reproducing* the social system.[45]

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[43] Ibid., p354. Campbell suggests that it may be argued that Habermas needs to supplement his defence of consensus with an Heideggerian conception truth needed to close the conceptual gap between any consensus and disclosure of being. While he concedes that Habermas *does* acknowledge that people employ linguistic expressions to 'come to an understanding *with* a hearer *about* something and thereby to make *himself* understandable', Habermas follows this threefold characterisation immediately with his speech act theory, which specifies that it is integral to the communicative intent of the speaker to perform actions which are *right* or legitimate, given the normative context, to make *true* statements (ie in the sense of correct existential propositions) and *truthfully* expressed (ie conveying his feelings, intentions, desires etc. so that the hearer will give credence to what is said). Campbell, *Truth and Historicity*, pp352-353.

[44] Andre' Gorz, 'A Digression on the Notion of the Lifeworld', *Critique of Economic Reason* Verso, London, New York, 1989, p173. See Jurgen Habermas, *Theory of Communicative Action, Volume 2* Cambridge University Press, Cambridge, 1987, Chapter 6.

[45] Gorz, 'A Digression on the Notion of the Lifeworld', p173. In his comments introducing his formal pragmatic analysis of the Lifeworld, Habermas states that his focus is on the invariant structures, rather than the historical shapes of particular lifeworlds and life-forms and that '[w]ith this first step we are taking into the bargain a separation of form and content'. Habermas, *The Theory of Communicative Action, Volume Two*, p119.

> By examining activities only from the angle of their social function of reproduction, positivist sociology thinking acts as though these activities could be completely described in terms of their functions and as if the individuals concerned had no reality other than that which is socially constituted.[46]

In so doing Habermas makes it 'impossible for himself to understand that each individual is also for himself a reality which exceeds what society gives him a means to say and do and that no one actually coincides with what the sociologists call their social "identity", or "individuality" or "personality".' The Lifeworld of the sociologist is only a distant relation to the (existential) phenomenological view of the Lifeworld as the 'world of original lived experience'. The sociologist's view is 'that of experience mediated by the social means of its formalized expression (by the stereotypes of language in particular) and shorn of its negativity'. This is reflected in Habermas' definition of the Lifeworld as 'represented by a culturally transmitted and linguistically organized stock of interpretive patterns'.[47]

In contrast to Habermas, Gorz argues that in fact human beings 'exceed their socially constituted reality by their autonomy and sensibility (and are exceeded by it)'.[48]

We can see here then, that as was the case with Rorty, Habermas fails to embrace that which transcends culturally-conditioned forms. He is consequently left with no option but to adhere to a conception of truth which reduces it to relations of coherence within discourses.[49]

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[46] Gorz, 'A Digression on the Notion of the Lifeworld', p174.

[47] Ibid., pp174-178, quoting from Jurgen Habermas, *Theory of Communicative Action*, Vol 2, Cambridge University Press, Cambridge, 1987, p124.

[48] Ibid., p174.

[49] I return to further consider the epistemological status of Habermas's theory of communicative truth in Chapter 6.

Embracing Language's World-disclosing *and* Action-coordinating Functions

To account for trans-cultural justice in a way that avoids privileging a particular set of cultural values and meanings, an epistemic and ontological perspective must be employed, which embraces that which is other than, or transcends, discourse viewed as culturally-determined. That is, an epistemological perspective which does not reduce truth to warranted assertability, and an ontological perspective which does not reduce the Lifeworld to merely representations, propositions or shared normative values and standards needed to account for action-coordination, is required.[50] An ontological perspective which admits language's world-disclosing capacity, opens the way to admitting points of potential trans-cultural commonality, grounded in *shared experience* within the world. From here an account of trans-cultural communication and understanding might be developed, which entails processes of engagement in which each party discloses what is there to the other, in ways that rely, not on the pre-existence of shared understandings (which can not be presupposed within pluralist contexts), nor on the coerced imposition of one culture's set of understandings on the other, but rather, capacity to jointly attend to and disclose what is there.

Political reflection which responds adequately to contemporary debates as well as to the demands of socio-political practice, must address commitments to both the world-disclosing as well as to the action-coordinating functions of language, and address both responsibility to otherness as well as responsibility to act (with good justification).

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[50] My references here to that which *transcends* and *goes beyond* existing discourses is not in any way intended to suggest a transcendent *entity*. Here my understanding of that which transcends might be viewed as akin to William Connolly's understanding of Derrida's 'fugitive' presentation of the *difference* that produces differences: emphasising its 'non-being outside a network of practices', 'its nontheistic character'. Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p13.

As Habermas argues, a perspective which admits *only* language's world-disclosing function makes it unclear how the reproduction of social life, particularly the learning process which sustain it, can be explained:

> "linguistically mediated processes such as the attainment of knowledge, identity formation, socialization and social integration master problems *within the world*." Linguistic interaction "makes learning processes [in these dimensions] possible thanks to the idealizations" built into it….. In the deconstructionist model, "the renewing process of linguistic world-disclosure no longer has any counter-pressure from the confirming process of practice in the world".[51]

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[51] White *Political Theory and Postmodernism*, p26, quoting Habermas, *The Philosophical Discourse of Modernity*, 204 -7, White's own translation and added italics. Habermas argues that Derrida, for example, is blinded by an 'aesthetic contextualism' which bars him from seeing that 'everyday communicative practice makes learning processes possible'.. 'in relation to which the world-disillusive force of interpreting language has to prove its worth'. Habermas, *The Philosophical Discourse of Modernity: Twelve Lectures*, p205. White is critical of theorists including Habermas and Taylor who hold to 'traditional orientations', arguing that in pursuing their founding projects 'they persist in the belief that the problem of otherness' including the problem of recognising people's whose cultural heritage is radically different 'can be adequately settled within their frameworks'. He argues that it is crucial to 'addressing the postmodern problematic satisfactorily that we let go of this belief'. (p22) He argues that Habermas has elaborated 'a minimal, procedural, discursive conception of justice that is intended to be more open to difference than that of familiar proceduralist conceptions' (John Rawls' for example). However, 'Habermas' engagement with the postmodern problematic lacks a deep enough sense of responsibility to otherness to provide *by itself* an adequate perspective on justice' White *Political Theory and Postmodernism*, pp121-122. Italics added. For Habermas, reflecting his overarching commitment to responsibility to act, it is imperative that pre-eminence is given to language that coordinates action-in-the-world White *Political Theory and Postmodernism*, p25. Similarly, Connolly argues that Charles Taylor, while supporting resistance to domination, and prepared to acknowledge that Foucault's project exposes 'modes of subjugation poorly understood or thinly documented in previous critical accounts', nevertheless charges the Nietzschean perspective which informs Foucault's project with 'sever[ing] the moral nerve of collective efforts to improve the modern condition'. Connolly, 'Michel Foucault: An Exchange: 1. Taylor, Foucault, and Otherness', p365.

Less strongly, Connolly also acknowledges that 'it is just that deconstruction is not the only activity needed in town': if one holds that 'experimental detachment from the dominant terms of debate is an element in the cultivation of freedom and care' it may be that 'the detailed elaboration of an alternative interpretation may be a viable way to proceed'. Here Connolly admits that the formulation of 'alternative interpretations' may not only contribute positively to the Difference project of exposing dissonance, it may also be an avoidable, if only implicit feature of such a project. [52]

On the other hand, however, only an ontological/epistemological framework which embraces that which is other than constituted through socio-cultural forms can explain and affirm the appearance of the other, new and different. As White argues, a political theory which affirms responsibility to otherness, requires 'a deep affirmation of the world-disclosing capacity of language, since it is the use of that capacity what can loosen our world's hold upon us by confronting us with the ways in which it is structured by unrecognized or wilfully forgotten fictions'. [53]

Stephen White concludes that something like a 'balance' must be struck between responsibility to otherness and to action within political reflection. [54]

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[52] Connolly, *Identity\Difference: Democratic Negotiations of Political Paradox*, p14.

[53] White *Political Theory and Postmodernism*, p27.

[54] White suggests that it would seem that there is an 'irrevocable tension' between political reflection under the pull of responsibility to act in the world and responsibility to otherness each orientation producing a recurrent critique of the other. Theory most strongly informed by responsibility to otherness is 'charged with an irresponsible, apolitical aestheticism' showing 'no theoretically informed way toward collective action' or 'with secretly desiring an aestheticized politics that exhibits a dangerous neglect' of distinctions between works of art, political actions etc. Political reflection more strongly informed by responsibility to act 'is charged with a conceptual imperialism that is blind to its harmful practical consequences'. Ibid., p28.

Determining Order of Priority: World-disclosure or Action-coordination?

I agree that the socio-political arena can be persuasively and constructively viewed as a tension, or better, a dance between shared standards, 'idealisations', values etc. and difference. I also agree that a theory which does justice to the critique of difference will keep this tension in view. However, a political theory of autonomy and transcultural justice must go further, and employ an ontological and epistemic framework which gives *priority* to responsibility to otherness and the world-disclosing function of language.

Here I am partly acknowledging (with Habermas) that there is a vital role for language use oriented towards action-coordination to affirm the socio-political importance of responsibility to otherness. However, by giving priority to the world-disclosing function of language I am signalling that I do not concur with the view that White attributes to (at least the earlier) Habermas: that commitment to responsibility to otherness either requires or ought to have 'confirmation' through political thought and language use.[55] Insistence on such confirmation, which entails prioritising the project of legitimating and justifying shared authoritative standards, I suggest necessarily undercuts one's commitment to world-disclosure, providing justification for 'averting one's gaze', and thus failing to keep the paradox of ethicality in view.

White's reflections on the importance of rejecting the primacy of the action-coordinating and associated representational functions of language are helpful here. He recounts that this became most clear to him in an exchange with a 'staunch Habermasian', who argued that we could have virtual 'advocatory discourses', in which we represent those others who cannot in some sense effectively speak for themselves (ie the insane, children etc); those who have no sense of political efficacy. White agrees that one must

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[55] See Ibid., p25. See also Young, *Justice and the Politics of Difference*, p106.

certainly try to do this. However, he argues that in so doing we must at the same time 'carry a deeply tragic sense of the inevitable failures involved'. Without this strong commitment to respond to otherness 'one will always be susceptible to a subtle and blinding overconfidence'. White suggests that the virtual advocacy solution to the problem of otherness, is perhaps akin to Britain's eighteenth century assertion to the American colonists that they should be satisfied with virtual representation in parliament.[56]

The moral and political significance of giving priority to the world-disclosing function of language, and consistent with this, abandoning the social-contract approach to defending principles of justice and human rights (at least for the purposes of constructing a maximally-capacious theory of autonomy), is further highlighted by Martha Nussbaum's human rights theory, which demonstrates strong commitment to both 'responsibility to act as well as 'responsibility to otherness':[57]

According Priority to Action-Coordination: an Illustration

Like Rawls, Habermas and other theorists whose work reflects their focus on responsibility to act and the action-coordinating functions of language, Nussbaum argues that without an 'historically sensitive account of the most basic human needs and human functions'... 'we do not have an adequate basis for an account of social justice and the ends of social distribution'. Such an account provides 'what we urgently need at this time – the basis for global ethic and a fully international account of distributive justice'.[58] Nussbaum nevertheless employs several of the strategies discussed above, to render her theory more responsive to difference. Her account of human functioning is deliberately vague and minimalist, it aims to be as inclusive as possible, it is

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[56] White *Political Theory and Postmodernism*, p22. (Footnote 18) .

[57] Nussbaum, 'Human Functioning and Social Justice, in Defence of Aristotelian Essentialism', pp202-246.

[58] Ibid. p205.

the product of engagement with representatives of a diversity of different traditions, and is deliberately open to revision in response to further engagement and investigation. Further, Nussbaum stipulates that the account of human functioning and the good must be utilised in conjunction with responsive engagement with the people concerned. Here she seeks to encourage aid or development workers to 'balance sensitivity to local tradition against her commitment to a theory of the human being'. Nussbaum also addresses rather than evades the epistemic challenge of historicism, and explicitly characterises hers as an internalist (albeit universalist, essentialist) conception, which derives authority from practices of investigative inquiry and discursive reason.[59]

I want to suggest, however, that her *primary* commitment is to action coordination, and this undermines her commitment to otherness, and renders her theory less than adequately (ie maximally) sensitive to cultural difference. This is evident within two hypothetical examples Nussbaum provides to illustrate how she would apply her theory.

In response to a defense of traditional Indian menstrual taboos, on the grounds that these may be integral to the preservation of a traditional way of life, Nussbaum simply responds that these 'menstruation taboos' 'look like a clear restriction on women's power to execute a plan of life that they have chosen', even if, as is sometimes suggested, the taboos give women more rest and a little more pleasure than they would have if they were working. For Nussbaum, 'trade-offs that diminish the power of choice, even when they result in greater comfort, are not supported by the Aristotelian view'.[60]

In response to the claim that non-western people are not especially attached to freedom of choice, (and an admittedly poor example to illustrate this point

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[59] Ibid. pp208,215-216,224-225.
[60] Ibid. p235

taken from Japanese domestic life) Nussbaum argues that for a Neo-Aristotelian essentialist, an appropriate response to this assertion, is obvious: determination of first, the extent to which freedom of choice should hold as a standard when considering what constitutes a universal human right, and second, how this principle should be applied to the Japanese example, begins with reflection on what is meant by freedom, which Nussbaum simply defines as 'the power to form a conception of the good and to select action toward its realization'.[61]

In both cases Nussbaum's response proceeds, not from receptive engagement with the parties in question, but rather, from her own (albeit highly inclusive) conception of the human good. Here her commitment to defending a particular view of the good, trumps a view of the good which gives priority to open receptivity to different others.

I am arguing that priority must be given to the world-disclosing function of language over and above its action-coordinating function. However, more is required than reflective projects which continue to expose the paradox of ethicality, or simply offer another 'counter-ontological projection' which might 'open up productive possibilities of reflection in this domain'. As I have argued above, a political theory adequate to *both* sides of contemporary political thought, as well as to the demands of contemporary political practice (ie conditions of great interdependence and radical plurality in particular) will delineate and defend a maximally-capacious, philosophically vindicated, substantive, conception of autonomy. Such an account must nevertheless be of sufficient determinacy to account for the possibility of trans-cultural justice. By employing an ontological/epistemic framework which gives priority to world-disclosure and responsibility to other, the proposed theory is not forced to 'bury the paradox of ethics'. By identifying receptive attention to what is there, the new or different, as the fundamental

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[61] Ibid. pp234-235.

source of authority of shared standards and values, I instead lodge commitment to otherness in the very ontological and epistemological foundations of the theory. That is, at the root of the proposed theory, is acknowledgement that idealisations required for action-coordination, social projects, goals and institutions themselves derive their authority and are sustained, fundamentally, by responsiveness to that which transcends them: the yet-to-be-formed, new and other.

The Kantian Two-part Structure, World-disclosure and Action-coordination

In Chapter 2 the two components of the structure of Kantian autonomy and non-cognitive forms of judgment were identified as first, with notions of the transcendent (or *unformed*) and second, with shared, authoritative laws or standards (ie the *formed*). The former was identified in the case of moral agency with freedom from causal conditions; in the case of the Public Use of Reason, with critical faculties needed to suspend, critically evaluate prejudices and if necessary revise existing standards in response to the new, different or previously unknown.

We saw that within Kant's formal account of autonomy, the authority of the formed component, the moral law, was grounded, fundamentally in the unconditioned, unformed component. Within Kant's account of the Public Use of Reason and O'Neill's constructivist reading of his vindication of Reason, the authority of shared standards of reason was grounded fundamentally in the 'practices of toleration in communication' (associated with enlarged mentality and *sensus* communis) needed to critically evaluate existing standards of reason.

I argued that an account of autonomy which (1) reflects Kant's commitment to the unconditioned source of human dignity and (2) can also be vindicated as the commonality that must be assumed if there is to be justice, given plurality, will revise Kant's more substantive views on reason so that (1) 'practices of toleration in communication' correspond to the unconditioned within Kant's account of autonomy, and (2) the role played by the moral law within Kant's account of full autonomy be filled by those shared standards which must be assumed if there is to be moral order grounded in communication rather than force.

At this point I merely want to suggest that it is no coincidence that the priority that is accorded to the *unconditioned* component of the two-part structure within Kant, runs in parallel with the priority I have just argued must be accorded to the world-disclosing functions of language. In both cases priority must be accorded to that which transcends the culturally-conditioned – only then can both responsibility to otherness be addressed and human agency affirmed.

The parallels between the constitution of moral autonomy and the requirements of responsibility to otherness are hinted at by Andre Gorz, who, like Kant, employs the notion of the 'negative' as indicative of that which is vital to human autonomy, as well as creativity. Gorz writes that

> The non-coincidence of the individual subject with the 'identity' which society obliges him – or gives him the means – to express is at the root of both individual autonomy and all cultural creation. … It is the ferment of negativity in the heart of all culture, the ferment of doubt at the heart of practical certainties, the ferment of strangeness at the heart of familiarity and of nonsense at the heart of meaning.[62]

In Chapter Six I show that the two-part structure identified with Kantian autonomy above, can be fruitfully understood to correspond to the world-disclosing and action-coordinating distinction being made here, and provides justification for the according priority to the world-disclosing functions of language and responsibility to otherness.

Conclusion

In this chapter I have argued that a theory of autonomy and of justice which addresses the core commitments of both the Dignity and Difference streams of political thought will employ an ontological and epistemological framework which embraces both language's world disclosing as well as

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[62] Gorz, *Critique of Economic Reason*, p177.

action-coordinating functions, and give priority to the former. By giving priority to the unconditioned component, rather than to conditioned, determinate standards, such a framework coheres with Kant's vindication of reason which insists that reason's authority is grounded in capacities needed to critically evaluate and if necessary revise existing authoritative standards of reason (ie faculties of toleration in communication), rather than the existing standards of reason themselves.

It is evident from this discussion that I take seriously the critique of identity/difference. However, I have argued in the preceding chapters that to evade proposing positive ontological and epistemological alternatives to philosophy's traditional foundationalism is by default to capitulate to radically culturally- and epistemically- relativist perspectives which would seem to follow from contemporary historicism and pluralism; to fail to construct an alternative ontological and epistemological perspective is to expose oneself to the criticism that the authority of one's account is merely internalist, and can have no trans-cultural standing. In light of the critical analysis of Rorty's anti-foundationalism, and of Habermas' identification of truth with warranted assertability above, only if an epistemic framework is employed which embraces that which transcends the culturally-particular, can there be constructed a philosophical account of autonomy or justice which can claim *substantive* content; that is, as pertaining to what is the case, or to use Heideggerian language, as disclosing what is there.

In Chapter Three, in the light of both the Dignity and Difference streams of contemporary political thought, I argued that the proposed theory must assume maximally-capacious commonality of sufficient determinacy to account for the possibility of justice, given plurality. Further, Kant's more substantive views on practical reason must be revised in the light of the Difference perspective, to account for the critical faculties needed to overcome prejudices at all levels of experience. In particular, faculties needed to overcome prejudices which arise through face-to-face engagement with different others needed to be delineated and defended. Kant's assumption that the possibility of moral order, given human plurality, rests on a common discursive reason required to reflect on one's action in the light of principles, was both too determinate, failing to recognise the diversity of

forms of rationality and critical faculties people employ, and also insufficiently critical.

Particularly in the light of the structure of Kantian autonomy and his accounts of non-cognitive (ie in the Kantian sense) forms of judgment, I have argued that such an account must identify this human commonality, fundamentally, with that which transcends the culturally-determined and hence particular, which I have referred to above as the unconditioned. I have argued that only if shared standards of communication are grounded in that which transcends the culturally-conditioned, is it possible to construct an account of autonomy and (trans-cultural) justice which does not privilege the understandings of any particular culture. As the discussion of Young's alternative view of impartiality and moral reason indicated, to account for the possibility of non-coerced communication between a plurality of peoples, it is not enough to simply state that all must be given the opportunity to 'express' their own culturally-particular concerns and be heard. The account must also explain how radically different others can overcome prejudices and interpret what each party is trying to communicate. I have argued that at minimum, only if capacity to suspend one's existing culturally-conditioned understandings is admitted, can such communication begin to be accounted for. At the same time, any such maximally-inclusive account of the possibility of trans-cultural understanding must be constructed so as to avoid privileging the cultural understandings of any particular culture, or form of reason.

I turn now to consider whether the proposals which have emerged out of the preceding critical engagement with Kantian theory as well as from consideration of the core commitments of both sides of contemporary debate within political thought, stand up in the light of Richard Campbell's and Emil Fackenheim's analyses of the problem of reconciling philosophical truth with historicity.

Chapter 5: Reconciling Philosophical Truth with Historicity

In this chapter I bring into focus key epistemological challenges which must be addressed within the proposed theory by considering these in the light of Emile Fackenheim's and Richard Campbell's reflections on the task of reconciling truth with historicity. I first introduce the doctrine of historicity and its implications for philosophical truth. I then identify both epistemological assumptions which hinder and which advance the reconciliation of philosophic truth with historicity. It emerges that a central conclusion of the discussion so far, that the proposed account of autonomy must admit the transcendent, coheres well with Fackenheim's and Campbell's arguments that if truth is to be reconciled with historicity, then a transcendent ground of truth must be identified and further, that this transcendent ground must be located within and not beyond the Lifeworld. I consider Fackenheim's interpretation of Heidegger's distinction between *existenzial* and *existenziell*, which Fackenheim argues, suggests an approach to conceptualising true, philosophical understanding, which is grounded in a transcendent experience within the Lifeworld.[1] It would seem, however, that this Heideggerian distinction can not be employed to construct a philosophically vindicated account of truth, as the construction of such an account would imply the prior authority of philosophic standards of truth – and in so doing negate the authority of the transcendent, experiential

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[1] Here I follow Fackenheim and employ the terms (1) '*existenzial*' (to indicate quasi-philosophic inquiry into the structure of Dasein) and (2) '*existenziell*' (to indicate pre-philosophical understanding as coming to terms with the question of existence, which, Heidegger maintains, can only take place through existence itself). These terms correspond, in the Krell translation, to (1) 'existential' (which Krell states is a translation of '*existenzial*') and (2) '*existentiell*' (a translation of '*existentielle*'). See Martin Heidegger, 'Being and Time: Introduction', *Basic Writings*, ed. David Krell Harper and Row, New York, 1977, p48.

ground. I conclude by suggesting that an epistemological framework derived from the two-part Kantian structure discussed above, which does not, fundamentally, privilege the normative standards of any particular tradition or sphere of practice, can address the problems raised by Fackenheim and Campbell, and in a way that responds more adequately to contemporary pluralist commitments than either theorists' proposals.

Historicist Insights and the Problem of Truth

Within political thought the various terms associated with historicist insights – 'historicism', 'historicity', and 'historicization' – are often employed without clear definition.[2] In spite of this general trend Fackenheim and Campbell have provided penetrating philosophical reflections on the

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[2] Carl Page has gone so far as to say that for the most part the term 'historicism' is best identified more as an 'historicist gesture' than a fully worked out philosophical position. Page uses the term 'gesture' here to indicate that often those who align themselves with historicism are identifying with little more than 'a set of convictions about the importance of history' which is only secondarily accompanied by 'some articulate philosophical account of theoretical commitments and presuppositions'. Page, *Philosophical Historicism and the Betrayal of First Philosophy*, p2. He (somewhat disparagingly) characterises this historicist gesture as a 'reflex insistence upon the fundamental relevance of historical contextualisation for either or both (1) the intelligibility of human realities and (2) the possibility of human understanding'. He notes that thinking identified with historicism varies across a spectrum 'from wholesale relativisation of action, speech and thought' to more modest claims 'that historical considerations should not be neglected in theoretical inquiry or practical reflection'. (p1) Anthony Flew identifies historicism with a 'variety of distinguishable methodological views relating to history and society'. Central to these are 1. Doctrines, often held to have relativist implications, to the effect that all systems of thought and knowledge must be judged within a perspective of historical change or development. 2. Claims about the specific nature of historical enquiry that typically stress empathetic understanding and the interpretation of past events in their unique particularity. 3. Conceptions of social science as being concerned with the discovering of 'laws of development', that govern the historical process and permit long-term social forecasts and predictions.' Anthony Flew, *A Dictionary of Philosophy*, p48. This last definition is derived from Karl Popper – a view not considered below.

concepts historicity and historicism and the implications of these for philosophic truth.[3]

Fackenheim introduces his discussion of the implications of 'historicism' for metaphysical truth with the observation that history has always presented a 'predicament' for those who must live it:

> We are able to inquire into history only while being part of it. We seek permanent truths about history; yet we ourselves, our whole thinking included, are nothing permanent. This is the predicament of history, radically stated: that we are so changeable and yet are in such need of the permanent.[4]

With the 'ever increasing historical self-consciousness' of the West, this predicament has become more acute. According to Gerhard Kruger the problem of history was not yet discovered by the Greeks; Christian thinkers such as St Augustine then 'coped' with it (but did not fully address or face it) in terms of the Christian doctrine of 'Providence'; Enlightenment thinkers dealt with it in terms of the belief in 'Progress'; Romanticism represented a turning point in the evolution of this consciousness as the Romantics were the first to fully discover 'the predicament of history', being 'the first to abandon the belief in the superiority of the present over the past' and seeking to resolve it by rising above history into timelessness. Kruger characterises the present age as 'an age of total historicity', one of 'mutually incompatible

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[3] Emil Fackenheim, 'Metaphysics and Historicity', *The God Within: Kant, Schelling, and Historicity*, ed. John Burbidge University of Toronto Press, Toronto, 1996; Emil Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', *The God Within: Kant, Schelling, and Historicity*, ed. John Burbidge University of Toronto Press, Toronto, 1996; Campbell, *Truth and Historicity*, pp395-411.

[4] Fackenheim, 'Metaphysics and Historicity', p122.

standpoints', because belief in the possibility of a rise to the timeless is no longer acceptable.[5]

Fackenheim suggests that considered from the point of view of popular culture it would seem that 'there is but one step – albeit a long and fateful one' from our contemporary self-consciousness of historical change 'to a wholesale historical scepticism: to the despairing view that history discloses a variety of conflicting *Weltanschauungen*, with no criterion for choice between them anywhere in sight'.[6] However, from a philosophical point of view the prognosis for truth need not be so pessimistic.

The Problem the Doctrine of Historicity Poses for Philosophical Truth

The radical challenge that historicist insights pose for our inherited notions of truth (and other trans-historical values) was given 'greater intellectual respectability' within philosophical circles once the historical character of philosophic systems was recognised: Hegel's treatment of the history of metaphysics in a manner analogous to Lessing's and Herder's treatment of the history of religions, opened the way for many nineteenth- and twentieth-century philosophers to suggest that 'philosophical or metaphysical truth, traditionally considered timeless, is likewise bound up somehow with history'.[7]

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[5] Ibid., pp215-216 see Gerhard Kruger, *Grundfragen Der Philosophie* Frankfurt, 1958, p49. Fackenheim considers Kruger's account of this development to be 'profoundly challenging', yet does not concur with it.

[6] Fackenheim, 'Metaphysics and Historicity', pp122-123. Three 'typically contemporary attitudes' illustrate how commonly the step to historical scepticism is taken. The first Fackenheim calls 'sceptical paralysis', the second 'pragmatic make-believe', the third 'ideological fanaticism'(p123).

[7] Campbell, *Truth and Historicity*, p397. Campbell identifies two key philosophic assertions to have radically challenged existing metaphysical assumptions about human being and truth, and contributed significantly to the 'historicizing of metaphysical truth': First, Nietzsche's assertion that 'God is dead' and second, Collingwood's assertion that 'the validity of metaphysical presuppositions depends upon their historical setting'. These

The historicist concept which is the focus of philosophical reflection on the problem of reconciling truth with historicism, is the doctrine of 'historicity'.[8] This doctrine maintains that human life and thought manifest an intrinsically (although generally unspecified) historical character.[9] Fackenheim defines the 'doctrine' of historicity as a 'metaphysical thesis' (as distinct from an empirical observation) that states that man's very being is involved in historical change; human being is essentially historical.[10]

Historicity is the idea then, that history is integral to human being: 'through our actions we constitute who we are'. Historicity does more than just point to cultural diversity between people(s). It states that what it is to be human varies from time to time and place to place. Recognising 'the historicity of human being' entails 'a recognition which extends to the symbolic structures of our thinking, its 'logical grammar', as much as to its empirical content; from the observation that human conceptions of truth vary historically comes

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assertions were so challenging because they were not merely saying that 'conceptual schemes and philosophic theories bear the marks of their time and so are ever in need of correction', but rather 'there is no such thing as timeless truth.' (p397)

[8] Page, *Philosophical Historicism and the Betrayal of First Philosophy*, p2. Historicity is a term which has gained philosophical 'currency' as a translation of Heidegger's *Geschichtlichkeit*. Campbell, *Truth and Historicity*, pp398-399. Campbell presents Fackenheim's analysis of the term as the best available. This analysis identifies two assertions that are required to render the concept: First, that a distinction is made between human acting (ie intentional human actions) and human being (ie reflecting widespread understanding of what 'history' entails) and further, that there *really is* free action (and not that we merely believe ourselves to be free). Second, that not only human acting is historical but also human being (ie we are not in our acting realising an essential nature). That is, there is no real distinction to be made between acting and being. Campbell, *Truth and Historicity*, p399. See also Fackenheim, 'Metaphysics and Historicity', pp125-128.

[9] Page, *Philosophical Historicism and the Betrayal of First Philosophy*, p2. In another formulation this 'central historicist thesis' is presented as maintaining that human understanding is always 'captive' of its historical situation. See Robert Stern, 'Macintyre and Historicism', *After Macintyre, Critical Perspectives on the Work of Alasdair Macintyre*, eds. John Horton and Susan Mendus University of Notre Dame Press, Notre Dame, Indiana, 1994, p146.

[10] Fackenheim, 'Metaphysics and Historicity', p125.

the observation that *'[h]ow* some cultural group conceives the world is as contingent as the world which is conceived'.[11]

Historicity poses such a challenge for philosophical truth because the concept 'truth' within western philosophy has been 'profoundly influenced' by the Platonic identification of truth with the absolute, eternal, unchanging, and perspectively neutral. Campbell argues that if we are to address this 'deep' problem of truth squarely 'it is essential that we recognise how it arises from the continuing influence of the Platonic conception'.

If we are aware that 'man's very humanity differs from age to age, from culture to culture, that implies that our capacity to appropriate our situation, and thereby our own being, varies relative to differing historical situations'. Following on from this, it would seem that that which 'is appropriated – the truths we claim to grasp – are likewise relative.' However, given that when we standardly invoke the word 'truth' we are pointing towards that which transcends all our limited and historically conditioned modes of thought, these historicist insights into the cultural relativity of truth suggest that we may have to dispense with 'truth' altogether.

> In assuming the timelessness of truth, the traditional view assumed a human capacity to know the truth, and thus a human nature which, if only in virtue of that decisive capacity, is essentially unchanging. But what if there is no permanent human nature? What if, instead of being only accidentally involved in historical change, man's very being is historical?[12]

Campbell observes that for western thinkers deeply immersed in the western philosophical tradition 'it is intolerable to seem driven towards saying that truth is [a] changeable and historical product'.[13]

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[11] Campbell, *Truth and Historicity*, pp1,398-399, 396.

[12] Ibid., pp402,401,398.

[13] Ibid., p397.

Two contrasting philosophical responses to the challenge an historicist conception of human being poses to philosophical truth can be identified, the first baring, the second opening the way to reconciling truth with historicity.

Strong, 'Classical' Historicism

The first is the philosophical position referred to by Fackenheim as 'classical historicism', a position which he describes as 'totally' historicising philosophical or metaphysical claims to truth.[14] 'This thorough-going historicism denies 'any place for the conception of truth as eternal on the grounds that anything which might be counted as true is purely a function of the conceptual scheme within which it is formulated and that these thought-forms in turn are simply the products of historical and cultural situations'.[15]

Campbell identifies two assumptions which must be adhered to if historicist insights into cultural and temporal relativity of meaning is to be understood inexorably to lead to a thoroughly relativist position.

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[14] Fackenheim, Fackenheim, 'Metaphysics and Historicity', p138. Fackenheim asserts that only one use of the term historicism 'deserves to be called classical'. This position asserts that all philosophical are superseded by historical questions. Quoting Leo Straus he states that this is "the assertion that the fundamental distinction between philosophical and historical questions cannot in the last analysis be maintained". (p138) See Leo Strauss, *What is philosophy?* Glencoe, Ill., 1959, p57. Fackenheim argues that while Heidegger explicitly repudiates historicism by means of achieving a radical grasp of history, this is a position to which the later Heidegger seems to be moving when he asserts that 'Being manifests differently in different period', and that, as is the case with the 'crudest forms' of historicism, this position is open to the same philosophical objections: that such a thesis cannot without self-contradiction be historicised (p228). As we shall see below, however, this inconsistency does not provide sufficient reason, in Fackenheim's mind, to avoid taking historicism seriously (pp227-228).

[15] Campbell, *Truth and Historicity*, p396. Page refers to this position as 'philosophic historicism' and characterises it as a position which 'claims that the activity of human reason is totally and necessarily determined by the finite actuality of historical circumstance, that despite the intelligibility of universal, primary, and synoptic cognitive ideals, in reality human reason is necessarily dominated by the purely contingent'. Page, *Philosophical Historicism and the Betrayal of First Philosophy*, ppxi-xii.

First, if historicist insights are taken to lead to a thorough-going relativism, 'truth' must be viewed as a predicate which pertains principally to assertions or 'linguistic items' (and the presuppositions of other speech-acts). Second, human being must be viewed as '*exhaustively* described as a naturally and historically situated self-making'. This is to ascribe to the view that 'in none of its intellectual or spiritual functions can human being transcend its historical situation'.[16] When truth is located in linguistic assertions and human capacity to transcend the particularities of one's own culture is denied, truth is both identified with and viewed as deriving its authority from discursive practices internal to particular cultures:

> If human being can be described *exhaustively* [in terms of nature and history] then human speech-acts are no more than acts of self-making which are fully explicable in terms of their situations. It follows that, instead of evaluating assertions in respect of their truth (where that is taken to transcend the speech act itself) they are to be explained without remainder as the product of their makers' natural and historical contexts.[17]

As discussed above, where that which transcends the culturally-conditioned is denied, truth is reduced to culturally-relative assertions or claims to warranted justification which fail to indicate 'knowledge of acquaintance' or to 'disclose what is there'.

In the preceding chapter I identified this culturally-relativist position with Rorty's late 1990's appropriation of Heidegger's anti-foundationalism. This position was criticised by Stephen White for failing to acknowledge the world-disclosing function of language and hence to address responsibility to otherness. This epistemological perspective was also suggested by Habermas' sociological view of the Lifeworld, as well as his appeal to the dislocated context of 'discourse' to account for rational consensus. I argued

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[16] Campbell, *Truth and Historicity*, pp402-403

[17] Ibid., p403.

that only if the transcendent is embraced can a *substantive* philosophical account of the possibility of trans-cultural justice grounded in communication rather than coercion be constructed. And as Andre Gorz argues, what is at stake here extends even further: it is 'nothing less than individual autonomy and, as a corollary, the autonomy of philosophy...'

> Philosophy can not be the pursuit of the True or the Good, nor can it pose the question of the value of values and the meaning of goals unless the subject is capable of stepping outside the norms and values which govern social behaviour and questioning received truths. There can be no autonomous thinking, no artistic or intellectual creation or moral revolt unless an original rift prevents the individual subject from coinciding with the 'identity' its social belonging confers upon it. [18]

Rethinking Philosophical Truth

Rather than conceding to classical historicism's thorough-going cultural relativism, the alternative route taken by Fackenheim and Campbell is to seek to reconcile western philosophic truth with historicist insights. Fackenheim argues that in spite of the difficulties historicism poses for philosophical truth, 'the man who lives in the world' who must make commitments and find reasons for adhering to them confronts the philosopher with the challenge of re-thinking inherited notions of philosophical truth.[19] Here Fackenheim and Campbell are in the company of

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[18] Gorz, 'A Digression on the Notion of the Lifeworld', pp175 -176. Murdoch seems to be pointing to the same thing when she writes that '[t]he enemies of art and of morals, the enemies that is of love, are the same: social convention and neurosis'. Murdoch, *Existentialists and Mystics*, p261.

[19] I quote at length a passage in which Fackenheim powerfully portrays the challenge philosophy faces: 'How can philosophic thought relate itself to the *Lebenswelt*? The *philosophia perennis* was *independent* of it, and yet possessed *standards* by which to judge it; for its eternal truths included the Good, the Beautiful, the Holy. A philosophy bereft of an eternal realm, however, has no such standards. It merely confronts, in the *Lebenswelt*, a history of *beliefs* in the Good, the Beautiful, the Holy. And if it seeks to preserve its truths in a transcendent purity free of all historical taint, it cannot enter into history and become a partisan in the history of the conflicting beliefs. It must adopt toward the *Lebenswelt* what

philosophers including Dilthey, Croce, Dewey and Heidegger who take the philosophical insight that 'there is no such thing as timeless truth' as impetus to investigate what an historicised metaphysical (ie transcendent) conception of truth might entail.[20]

Philosophy's 'Sitz im Leben': Fackenheim on Kant and Heidegger

Campbell and Fackenheim both argue that philosophy, having lost its anchor in the transcendent *beyond*, must look to the experience of truth of human beings *within* history here and now for its ground.

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may be called a strategy of indiscriminateness. The man who exists in the *Lebenswelt* may discriminate and choose between claims to truth. The philosopher who reflects on these claims judges that they are, equally and indiscriminately, mere opinion, unworthy of a *philosopher's* acceptance; for they cannot be *known* to be true. Or he may even judge that they are, equally and indiscriminately, unworthy of *anyone's* acceptance; for they cannot *be* true. (Thus logical positivism reduces all moral, aesthetic, and religious truths to mere illusory objectifications.) The *philosophia perennis* could *both* possess transcendent truths *and* discriminate, in terms of these truths, between claims to truth made in the *Lebenswelt*. Without an eternal realm, philosophy can keep its truths free of all historical taint only at the cost of losing this discriminating power. The transcendent truths have become so meagre as to force the philosopher either to wash his hands, indiscriminately, of the claims to truth made in the *Lebenswelt*, or else indiscriminately to destroy them.
But such a philosophic stance gives rise to a war between claims to truth made *in* the *Lebenswelt*, and philosophic truths asserted about these claims; a war for which the *philosophia perennis* has no precedent. The philosopher may adopt a strategy of indiscriminateness toward the *Lebenswelt*. The man who lives in that world cannot do likewise, but on the contrary *must* discriminate and choose, ie, accept *some* of the claims to truth made in the *Lebenswelt* as *being* true. And in this very act of discriminating choice he testifies against the philosopher. To his indiscriminate philosophic destruction he opposes a discriminating affirmation – which the philosopher must share, if not qua philosopher, qua man. And to his indiscriminate detachment he opposes a discriminating commitment – which the philosopher can avoid only so long as he remains a spectator. His testimony *in* the *Lebenswelt*, in short, shows either the falsehood, or at least inadequacy, of the philosophic doctrine concerning the *Lebenswelt*. *This* war between life and philosophy is one which philosophy cannot win.' Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', pp153-154.

[20] Fackenheim, 'Metaphysics and Historicity', p124.

> Having lost its goal in eternity, it requires roots in history; or to use another well-established German term, a Sitz im Leben.[21]

To consider how an account of philosophic truth might be grounded in the Lifeworld, Fackenheim first looks to Kant and then Heidegger's distinction between *philosophical* moral knowledge and moral knowledge grounded in *experience*.[22]

Fackenheim suggests that Kant, while showing few signs of recognising the *Lebenswelt* as an historical world, nevertheless does take the *Lebenswelt* seriously. More specifically Kant 'does hold that at least some philosophic truth has its *Sitz im Leben* in it'.[23]

Fackenheim argues that Kant holds that human experience of moral knowledge, while not the 'object knowledge, obtained by a spectator' nevertheless is a form of knowledge which is no less objective for the fact

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[21] Ibid., p154. Thus, for Fackenheim, the problem arises: *'How can philosophic thought be rooted in history, and emerge from history, and yet reach truth which is transcendent'* Fackenheim argues that 'philosophic thought can reach nothing less and still be philosophical' (p154).

[22] Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', p149. Fackenheim argues that contrary to Heidegger's view that nothing radically new has occurred in the history of Western philosophy from Plato to Nietzsche, 'at least so far as the historicity and/or transcendence of philosophic truth is concerned' … it is with Kantian philosophy that 'the radically new occurred'. '[T]he Heideggerian philosophy is only the last (although most radical, and among contemporary philosophies most significant) manifestation of a revolution initiated not by Heidegger but by Kant.' Unfortunately Fackenheim does not 'even sketch the interpretation of Kant on which this view rests' although he does note that its is an interpretation 'much indebted to Heidegger's Kant-interpretation, and yet fundamentally critical of its failure to do justice to, or indeed to take account of, the Kantian primacy of practical reason.' (p149). See Emil Fackenheim, *Kant and the Problem of Metaphysics*, trans. J.S. Churchill Bloomington, Indiana, 1966.

[23] Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', p155. As we have seen above, while Kant insists that his philosophical defence of the possibility of moral order can not be in any way indebted to empirical observations concerning human psychology or behaviour, he does nevertheless acknowledge that his moral philosophy spells out in technical language what ordinary people already know. Relevant passages here include Kant, *Critique of Practical Reason*, pp4, 27-28.

that 'of moral obligation I do not say 'it is certain' but 'I am certain'. 'I do not merely *feel* obligated but *am* obligated: the *certainty* is of a *truth*'.[24] The key point for Fackenheim here is that this certainty is not only 'independent of object-knowledge', 'it is independent also of philosophy'; Kant is not suggesting that philosophic knowledge *reduces* itself to moral knowledge but rather that a 'mutual dependence' obtains between them:

> Obligation is the *ratio cognoscendi* of freedom. Freedom is the *ratio essendi* of obligation. I *believe* that I am free because I am morally obliged. Only if I *am* free can the belief in my being-obligated *be* a *true* belief. Philosophic thought achieves a transcendent grasp of the whole structure of experience, and thus can demonstrate the *possibility* of my freedom. Thus the sophisticated moral consciousness is enabled to do what the naive does anyhow, i.e., assert, along with the actuality of obligation, the *actuality* of freedom.[25]

Fackenheim argues that with his concept of 'freedom', Kant provides a precedent for locating the *Sitz* of a transcendent philosophic truth within the *Lebenswelt* rather than eternity. However, and as has been emphasised above, the Kantian (philosophical) moral truth (to the extent it *is* a truth) can be 'universal and necessary' only 'by abstraction from history'.[26] Kant can only *suggest* that human experience might provide a ground for moral knowledge. For according to his transcendental metaphysics, this ground must be identified with that which transcends the conditioned, that which is beyond rather than within the realm of (the Kantian view of) human experience.

Fackenheim explores Kantian resources no further in his quest for a transcendent ground of philosophical truth within the Lifeworld. Instead he approaches the problem of reconciling philosophic truth with historicism by considering the following question: How can philosophic thought have 'as a

[24] Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', p155

[25] Ibid., pp155-156.

[26] Ibid., p156.

Sitz a *Weltanschauung* [ie a totalising world-view] *within* the historical world' and yet reach a transcendent grasp *of* the historical world', that is, 'knowledge of that which is beyond history'?[27]

Here Fackenheim briefly considers solutions to this question suggested within Hegel, Nietzsche and Marx, and argues that none of them are able to provide what is needed by philosophic thought: a *Sitz im Leben* which occurs 'neither at the end nor in the final crisis of history, but rather in the midst of a history with a wholly open future'.[28] He argues, however, that once an Hegelian all-embracing and final solution has been dismissed, it would appear that such a requirement can not be met: philosophical thought 'in need of a *Sitz im Leben* cannot then encompass history but threatens to be encompassed by it, the reflection of a mere *Weltanschauung* to be followed by other, unpredictable *Wetanschauungen*'. At this point the *Lebenswelt* and philosophy seem to be both 'reduced to radical historicity'… 'Historicism [ie the doctrine concerning the historicity of *all* Weltanschauungen] seems inescapable'.

Fackenheim nevertheless insists that, contrary to appearances, philosophy can not concede to historicism. Key to this assertion is his observation that if 'the reduction to historicity' were total then 'it could not come to consciousness'. Were historicity total

> [t]here could be historically situated *Wetanschauungen*: not historicism, which is not itself a *Weltanschauung* but rather a *Weltanschauungslehre*, ie, the

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[27] Ibid., p158.

[28] Ibid., pp157-158. Fackenheim briefly considers first Hegel's answer to this question: that a philosophy rooted in the historical world can reach a transcendent grasp of this world 'if the philosophic grasp of history occurs at the end of history'. He then notes the anti-Hegelian solutions of Marx and Nietzsche who both 'attained an transcendent grasp of history, from within history, by characterising their own historical situation as one of '*final* and hence *universal* crisis'. (p157)

> doctrine concerning the historicity of *all Weltanschauungen*. And the truth claimed for *this* doctrine is not historical but transcendent. [29]

Fackenheim is distinguishing here between an historically situated world-view (*Weltanschauung*) and a philosophical perspective which maintains that all world-views are historically situated, that is, philosophical historicism: he argues that it is in the nature of philosophy, understood as the quest for universal and transcendent (or what he refers to as the 'ratio'), that once engaged in this quest there is no escape from it. The significance of this point for philosophical historicism is that although thorough-going historicists seek to 'bind truth to specific historical situations', they cannot in so doing 'dispose of the truth of historicism itself'. That is, a formal contradiction arises when claims are made to the universality of an historicist perspective.[30]

In spite of this formal incoherence of philosophical historicism, Fackenheim argues, again, that its claims must nevertheless be taken seriously: given 'the loss of eternal truths', and that philosophic truth consequently requires a *Sitz im Leben*, and given also that the *Lebenswelt* is historical, historicism can not merely be dismissed with charges of formal self-contradiction. At this point we can characterise historicism as being at an impasse which 'calls for an inquiry into whether, and if so how, the *Lebenswelt* can provide a *Sitz*, for both the historically situated *Weltanschauungen* and the philosophical insight into their historicity'.[31] To address this question Fackenheim draws our attention to relevant features of Heidegger's distinction between *existenzial* and *existenziell* within his analysis of *Dasein* within *Being and Time*.[32] An outline of the key points in Fackenheim's account follows.

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[29] Ibid., p158.

[30] Ibid., p151. Fackenheim specifies that here he uses the term 'ratio' to designate 'a thought which seeks a radically universal, and hence transhistorical, truth'. (p233) Note 4.

[31] Ibid., p158.

[32] See Ibid., pp158-160

Heidegger's Distinction Between 'Existenzial' and 'Existenziell'

First, the Heideggerian *existenzial* refers to the *(quasi) philosophical* analysis of the historical structure of Dasein, that is, the structure of Dasein's historicity (where Dasein approximates to human-being-in-the-world, literally 'there-being').[33] The truth of this (quasi) philosophical analysis is neither eternal nor merely historical but considered to be transcendent in the sense that it discloses the exhaustive, basic factual possibilities of Dasein.

This existential analysis of Dasein is understood to be a possibility of *Dasein*, as distinct from a form of philosophical thought, which might suggest that it somehow *rises above* Dasein.

Second, the Heideggerian e*xistenziell* is a self-understanding which Dasein has of itself; this is a form of understanding which is itself historical. *Existenziell* understanding occurs when Dasein grasps the whole of its condition in privileged disclosures (for example 'care', 'anxiety', 'death', 'openness' and 'decisiveness'). These disclosures are privileged because in them Dasein comes *to know* the limitations within which it *is.* This *existenziell* does not rise above the limitations of Dasein, but rather constitutes 'their authentic confrontation'.

Fackenheim argues that this is the *existenziell Sitz im Leben* of the *existenzial* philosophic analysis of Dasein.[34] Further, the *existenzial* philosophical

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[33] Heidegger specifies that central to Dasein is that it is a kind of existence that is always involved in an understanding of its Being. In his later work Heidegger often hyphenates the word Da-sein to stress that Dasein indicates 'there-being', indicating the openness to Being characteristic of human existence which is 'there' in the world. See Heidegger, 'Being and Time: Introduction', p48; Heidegger, *Being and Time*, pp67-68.

[34] In the introduction to *Being and Time* Heidegger writes 'the roots of existential [existenzial] analysis …are ultimately existentiell [existenziell] – they are ontic. Only when philosophical research and inquiry themselves are grasped in an existentiell way – as a possibility of being of each existing Dasein – does it become possible to disclose the existentiality of existence and therewith to get hold of a sufficiently grounded set of ontological problems'. Heidegger, 'Being and Time: Introduction', p56.

analysis can refute historicism because its ground, Dasein's *existenziell* understanding, 'also and already refutes it'.[35]

Here I take Fackenheim to be arguing that Heidegger provides a conceptual framework from which to posit a transcendent ground for philosophic truth located within the world, because Heidegger's quasi-philosophical analysis of Dasein (ie the *existenzial*) constitutes a transcendent, universal analysis of Dasein, which is grounded in and also trumped by Dasein's experiential, existential self-understanding.

As Fackenheim argues, however, we can only go so far with Heidegger, because to sustain the authority of the *existenziell* over the *existenzial*, Heidegger must keep the content of the former entirely open and hence empty; 'the radical historicity of all authentic *existenziell* decisions demands an open *existenzial* category of decisiveness'.[36] Consequently Heidegger can not provide a *philosophical account* of how the *existenziell* understanding is related to or informs the (quasi-philosophic) *existenzial* analysis. In the light of Heidegger's work it would seem that the price philosophy must pay for locating the transcendent ground of (quasi) philosophic understanding within the world, is that this ground must be emptied of content; this model provides no philosophical means with which to distinguish between authentic and inauthentic (quasi) philosophic understanding (ie *existenzial*).

In the light of his reflections on both Kant and Heidegger, Fackenheim concludes that in spite of the 'veritable gulf' that separates the *Critique of Practical Reason* and *Sein and Zeit*, the two works share two 'formal but

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[35] Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', p159.

[36] Ibid., p160. See Heidegger 'But in what direction does *Dasein* open itself up in decisiveness? What shall it decide? The answer can be given only in the actual decision… Nevertheless, the *existenziell* indeterminacy of decisiveness, which can determine itself only in the decision, has its own *existenzial* determinateness.' Heidegger, *Sein Und Zeit*, p288 quoted in Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', p235. (note 31).

crucial' characteristics. First, 'Heidegger reclaims, after historicism, the transcendence for philosophic truth which Kant had claimed before it'. Second, he can make this claim, like Kant, 'only because he finds, as *Sitz im Leben* of the transcendent truth of philosophic thought, a transcendent truth manifest in the *Lebenswelt'*.[37]

Fackenheim suggests that Kant, through his non-historical conception of reason, unites moral knowledge of obligation with his philosophical knowledge of freedom. Reason for Kant provides a link of a kind that is unavailable to Heidegger whose *existenziell* understanding and *existenzial* interpretation 'well-nigh fall apart, for the radical historicity of all authentic *existenziell* decisions demands an open *existenzial* category of decisiveness'.[38] However, and as I have emphasised above, the necessarily non-empirical status of this 'reason' within Kant's formal accounts of moral autonomy, also precludes Kant from constructing a substantive, philosophically vindicated account of the link between moral knowledge and philosophical understanding of this knowledge.

So far we have seen then, that it is by singling out a quasi-philosophical and transcendent in the sense of 'radically universal and hence transhistorical' insight into the universal human condition, an insight which is grounded within human experience, that Fackenheim and Campbell find a philosophical foothold from which to defend the possibility of an historicist philosophical truth. In the light of this summary of Fackenheim's reflections on the *Sitz im Leben* within both Kant and Heidegger, I suggest that a key problem which must be addressed within an historicist account of truth which is grounded in the transcendent within the world, is to find a philosophic means with which to identify a transcendent experience *within* the world as the ground of philosophic truth. The problem here is to avoid,

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[37] Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', p160.

[38] Fackenheim concludes that 'the gulf between Kant and Heidegger, after all, is most grave'. (p160)

in the very process of positing a philosophically vindicated account of this truth, appealing to and hence privileging *philosophical* standards to do so, and hence undermining the view that a form of experience within the world is fundamental to truth (philosophical or other forms).

Perhaps at this point the solution is obvious: philosophy must take its own truth to be grounded, fundamentally, in the transcendent within the Lifeworld. How then can such an account of philosophical truth be constructed, and in such a way that still maintains continuity with our philosophical tradition, and so still embraces the standards of discursive reason hitherto identified with the discipline of philosophy?

Before I introduce how I propose to employ the proposed two-part Kantian structure to address these questions, I first consider Fackenheim's and Campbell's reflections on the problem of reconciling truth with historicism, focussing in particular on the task of revising the doctrine of historicity to admit the transcendent. With their preferred approach in view as a point of comparison, I am then in a position to explain why the proposed account of autonomy with its accompanying ontological and epistemological framework, responds to historicist insights in a way that more adequately addresses responsibility to otherness, as well as contemporary commitments to respect human plurality.

Rethinking the Doctrine of Historicity to Admit the Transcendent

To re-construct the doctrine of historicity to admit the transcendent – as they argue it must be if historicism is to be reconciled with philosophic truth – Fackenheim and Campbell turn to existentialist accounts (including Heidegger's) of human being. Here human being is viewed as constituted by the struggle between the finite situation and infinite consciousness.[39]

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[39] Campbell, *Truth and Historicity*, p404.

Campbell presents two different non-reductive ways of understanding the doctrine of the historicity of human being so as to admit the transcendent. The first he identifies as implicit in the approach of Hegel, who held that although human being is naturally and historically situated 'it is possible for us to transcend all the limitations implicit in being situated – in art, in religion, and, above all, in philosophy'.[40] Campbell notes that while Hegel 'also recognised at times that these two aspects must, yet cannot, integrate themselves into a unity' in the end he let go of the tension between the finite and infinite: 'in his quest for absolute knowledge, the finite ultimately swallows up the finite'.[41]

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[40] Ibid., pp403-404. Further, 'Hegel also recognized that human being is composed of both finite or situated aspects and infinite or non-situated aspects' identifying our humanity with the former, our capacity for philosophic recognition, for 'absolute knowledge' with the latter. See also Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', p139. Campbell observes that Hegel recognised that '[i]f human being is a self-making, then it must be composed of both finite or situated and infinite or non-situated aspects. It must have finite or situated aspects otherwise it would not be human. And it must have infinite or non-situated aspects, for otherwise it would be incapable of philosophical self-recognition. Hegel further perceived that, if human being is a self-making, its finite and its infinite aspects must, and yet cannot, integrate themselves into a unity. They must do so because neither aspect can reduce itself to the other. If the infinite reduced itself to the finite aspect, the result would relapse into historicism. And if the finite reduced itself into the infinite aspect, man would cease to be human'.

[41] Campbell, *Truth and Historicity*, p404 Fackenheim remarks that he did so for 'excellent reasons'... '[f]or if man remains an unresolved struggle must not his finite infect his infinite aspect, thus rendering philosophy impossible?' Fackenheim, 'Metaphysics and Historicity', p140. Hegel writes: 'in thinking, I raise myself above all that is finite to the absolute and am infinite consciousness, while at the same time I am finite consciousness, indeed to the full extent of my empirical condition. Both sides, as well as their relation, exist for me [in] the essential unity of my infinite knowing and my finitude. These two sides seek each other and flee from each other. I am this conflict and conciliation' Campbell, *Truth and Historicity*, p404, quoting from G.W.F. Hegel, *Lectures on the Philosophy of Religion*, ed P.C. Hodgson, University of California Press, Berkeley, Los Angeles, London, 1985, p212. Campbell notes that this passage appears in Hegel's own Lecture Manuscript. Fackenheim refers to this same passage from *Werke*, Berlin, 1840, XI, p64 *Lectures on the Philosophy of Religion*, tr Speirs and Sanderson, London, 1895. 'I raise myself in thought to the Absolute ... thus being infinite consciousness; yet at the same time I am finite consciousness ... Both

The other non-reductive view, the existentialist view of human being as constituted by the struggle between the finite and the infinite, as Soren Kierkegaard saw, throws the possibility of absolute knowledge of the kind that philosophy traditionally seeks into doubt. For so long as existence is a process of becoming, and I am an existing individual, truth, defined as the identity of thought and being, must likewise be a process of personal appropriation which I could never complete.[42]

However, and as Kierkegaard also saw, once human being is viewed as this un-resolvable struggle, and in spite of 'being inescapably engaged in this unrelenting struggle' we are nevertheless able to *reflect* upon that fact.[43] Following Kierkegaard, Campbell and Fackenheim maintain that amongst the myriad ways that human beings manifest this struggle in their lives, 'those in which human being recognizes itself as a self-formative process engaged in a finite situation' stand out as qualitatively distinct – 'because it understands the struggle, in principle and as a whole'.[44]

According to Heidegger this self-understanding is attained through 'privileged moments' of decision. Fackenheim describes this as requiring that one faces up to one's own finitude (ie death) not as an abstract, objective fact, but rather, through 'resolute anticipation, of how I am now, in my own finitude'. Such self-understanding springs

> only from existential attempts at radical self-transcendence, in which human being, seeking to rise above the unresolvable struggle which is its essence, recognizes its radical limitations by foundering in the attempt.[45]

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aspects seek each other and flee each other ... I am the struggle between them'.
Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', p140.

[42] Campbell, *Truth and Historicity*, p404.

[43] Fackenheim, 'The Historicity and Transcendence of Philosophic Truth', pp404-405.

[44] Fackenheim, 'Metaphysics and Historicity', p141; Campbell, *Truth and Historicity*, p405.

[45] Ibid, p141..

Through such an experience I can attain 'knowledge that is radically universal', for this is not merely knowledge of my own personal situation; this is knowledge that I am 'both in principle situated and yet able to recognize [my] situatedness'. Fackenheim writes:

> This knowledge is universal; and the person who has acquired it has risen to philosophical self-understanding.[46]

Fackenheim's Concept of the 'Human Situation'

Fackenheim refers to the existentialist conception of a transcendent yet situated insight into the human condition as the *human situation.*[47] He argues that this conception of self-understanding provides a way to account for how 'human being can rise to philosophical self-reflection, whilst denying the Hegelian transcendence of situatedness'. This form of self-reflection is a kind of knowledge which can not be grasped as divorced from the unique experience of each individual:

> It is the very acceptance of a particular and indeed unique limitation, whether natural or historical, which achieves philosophical universality in the moment of radical anxiety in which a man, recognizing his ultimate finiteness and yet bound to it even in the moment of recognition, is brought face-to-face with Nothingness. And it is the very grasp of a unique

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[46] Fackenheim, 'Metaphysics and Historicity', p141

[47] Ibid. . Fackenheim specifies that the concept of the *human* situation *is additional* to the notions of the *natural* and *historical* situation (which I have not introduced here). Fackenheim views the human situation as the *ontological ground* of both the natural and the historical situation. Further, it can only be 'individuated' in these, and correspondingly recognition of the human situation cannot be divorced from that of the natural and the historical situation. The human situation 'is achieved when the natural and the historical situation are understood radically, as specific manifestations of a universal condition. It is the radicalization of the natural and of the historical situation which discloses the human situation'. (p141)

historical opportunity, different from all others, which nevertheless becomes a paradigm of what all human freedom is. [48]

The Significance of the 'Human Situation' for Ethical and Political Reflection

Again, we can see that as was the case in the discussion of the possibility of an historicist conception of philosophical truth, Fackenheim and Campbell are building a doctrine of historicity which admits the transcendent by appealing to quasi-philosophical moments of insight into the human condition. Here they suggest that the transcendent status of this truth is indicated by the transhistorical universality of this experience. Fackenheim's concept of the human situation provides a way to account for a form of knowledge which can not be divorced from the historical and natural situations, and yet has a universality and transcendence which (Fackenheim argues) can be properly identified as philosophical.[49] Campbell writes:

> The introduction of the concept of the human situation into the analysis of human self-making [ie the doctrine of historicity] ... admits a special kind of universality which marks it off from the relativity occasioned by the particular circumstances of one's natural and historical situation. The human situation is not relevant merely to my particular autobiography, for while I have to discover it for myself, when I recognize my situation as a manifestation of the human condition as such, I am understanding it to be universally human. [50]

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[48] Ibid., p142. See Martin Heidegger, 'What Is Metaphysics?' trans. Brock, *Existence and Being* London, 1949, p369ff. Fackenheim suggests that the best known and most succinct account of 'failed self-transcendence' is found here at p353ff.

[49] As Fackenheim specifies, the failed attempts at self-transcendence 'must be radically individual, made by each person for himself. But the knowledge attained through them is radically universal. For this is not a person's mere knowledge of his personal situation. It is his knowledge that he is both in principle situated and yet able to recognise his situatedness. This knowledge is universal and the person who has acquired it has risen to philosophical self-understanding.' Fackenheim, 'Metaphysics and Historicity', p141.

[50] Campbell, *Truth and Historicity*, p406.

Campbell argues that in recognising one's own subjectivity in this way, one recognises it as a *universal* human phenomenon, and this 'means that one has become conscious of a fundamental commonality with others *in their subjectivity*'. This recognition makes it possible to enter into the subjectivity of others, even when those others exist in a different cultural or historical milieu.

Further, this interpretation of historicity, while recognising historical particularity, and that truth and human being do vary relative to different times and places, does not entail the 'retreat into scepticism' identified with reductive or classical forms of historicism.

> On the contrary, sensitivity to the way one's own historical situation informs one's outlook and concerns, far from necessarily preventing one from penetrating the thought-world of another, can free one from the limitations of one's own intellectual horizon and enable one to enter into the thinking of others, in order to understand how they, in their different situations, have responded to the human situation. In doing that, one enters into a living relation with those others, at once questioning what they have said and finding one's own presuppositions challenged and one's own intellectual horizons extended.[51]

Critical Reflection and Conclusion

I have turned to Fackenheim's and Campbell's reflections on the problem of reconciling truth with historicity, and their associated argument that the doctrine of historicity must be revised to admit the transcendent, because I have argued above that an epistemological and ontological framework required within a theory of autonomy which (1) can be vindicated on Kantian grounds, (2) fully affirms the autonomy and responsibility of the judging subject, and (3) responds most adequately to contemporary accommodationist and pluralist commitments, to 'responsibility to otherness' as well as to historicist insights, must also embrace the transcendent. In

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[51] Ibid., p407.

contrast to Kant's merely formal, transcendental account of autonomy, however, if the proposed account is to stand as a substantive account of autonomy, then it must locate the transcendent within the realm of human experience. Such a conclusion coheres well with Campbell's and Fackenheim's conclusion that if an historicist conception of human being is to be constructed, then its transcendent ground must be located within and not beyond the Lifeworld.

In the discussion of the distinction between experiential moral knowledge and (quasi) philosophical moral knowledge within Kant and Heidegger, we saw that a key problem that an historicist conception of truth must address, is how to construct a philosophical account of truth as grounded in a transcendent experience within the world, without negating the fundamental authority attributed to this transcendental experience by appealing to philosophic standards of truth to defend the account.

We have seen that Kant solved the problem of protecting the authority of the transcendent ground of autonomy and aesthetic judgment within his formal accounts by maintaining that the authority of shared standards of reason, including the moral law itself, must be grounded in the unconditioned.[52] Heidegger employed a similar strategy of keeping his *existenziell* free from content.

To protect the unconditioned, transcendent ground of his accounts of autonomy and aesthetic judgment, Kant also refrained from constructing fully philosophically-vindicated, *substantive* accounts, focussing on merely

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[52] I suggested that within his account of the Public Use of Reason this requirement was reflected in Kant's insistence that 'the public use of reason must always be free', that reason's authority is grounded in the *negative* criterion of an *absence* of a priori shared standards. More substantively this translated into the criterion that reason's authority rests, fundamentally, in those capacities needed to *suspend*, and following on from this, critically evaluate and if necessary revise existing standards of reason in the light of the new and different.

formal vindications of the possibility of moral order and aesthetic values, and continually distinguishing between his purely formal deductions and his more empirical observations and convictions. Heidegger, employing a different strategy, protected the authority of the *existenziell* from being usurped by the authority of philosophical standards by continually disassociating his work from philosophy's traditional foundationalist project.[53]

I am seeking, however, to construct an account of autonomy which is both substantive as well as philosophically vindicated. I have suggested that to do so I will employ a two-part Kantian structure which gives fundamental authority to an unconditioned ground, and also derives the authority of possible shared, authoritative, transcendent standards from this ground. Kant's work thus suggests an epistemic structure which gives *priority* to the unconditioned and transcendent ground, but is also able to account for the possibility of authoritative, transcendent standards.

What, then, are the implications of Campbell's and Fackenheim's revision of the doctrine of historicity so that privileged moments of insight into the human condition stand as fundamental to human being, from the point of view of the task of constructing the proposed, account of autonomy – which I have also argued must stand as maximally capacious and minimally determinate?

We have seen that Fackenheim suggests that one route towards an historicist conception of philosophical truth is via Heidegger's quasi-philosophical analysis (*existenzial*) of Dasein, which is grounded in a transcendent experience (*existenziell*) within the world. This transcendent experience is characterised as a moment of insight into and acceptance of the limitations of the human condition. Campbell defends this historicist conception of human

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[53] See for example Heidegger, 'The End of Philosophy and the Task of Thinking', pp373-392.

being by employing an argument which resembles the Kantian appeal to the criterion of communicability: such a conception of human being can stand as the human commonality needed to explain how trans-cultural interpersonal understanding can take place. In particular, acceptance of the limitations of my own situation enables me to better enter into the thinking of others, and hence, enter into a 'living relation' with them, opening the way to communication between different others.

From the point of view of constructing a maximally-capacious, minimally-determinate, pluralist, historicist account of autonomy, a key merit of this account is that it grounds the possibility of (un-coerced) transcultural communication (and following on from this, trans-cultural, transcendent standards) on a human experience which can arise out of confrontation with and acceptance of a limitation conceived as 'particular and indeed unique' to each individual, time and place.

However, Campbell's and Fackenheim's proposal requires significant modification and extension if it is to fulfil the requirements which I have identified must be met within a Kantian conception of autonomy; specifically, if it is to: first, stand as a minimally-determinate historicist account of autonomy; second, if it is to explain how a (true) philosophical account of this autonomy/historicity does not negate the view that its transcendent ground is located within the Lifeworld; and third, if it is to provide a substantive account of the capacities needed to overcome deeply held prejudices and aversions, so that it can explain how un-coerced communication can take place when engaged with different others. Three suggested modifications follow.

First, a less determinate account of the commonality deemed requisite for trans-cultural communication and hence transcendent values is required. Fackenheim's and Campbell's account would seem to promise a highly capacious conception, as it focuses on a generic kind of experience or capacity which can take place in any of a diversity of contexts or forms of activity. However, a more adequate account would identify a less determinate, more capacious ground for truth, than on a moment of insight into the human condition. Campbell's and Fackenheim's existentialists accounts would seem, to the extent that this transcendent experience is viewed as a moment of *conscious* reflection on the human condition (rather

than for example, an unreflectively-held experiential shift in orientation towards otherness), to privilege capacity for quasi-philosophical reflection. I argue below that a maximally capacious account will characterise this transcendent commonality so that it can be viewed as generic to *any* realm of human activity in which transcendent values are realised – rather than tying the possibility of 'truth' to a particular quasi-philosophical transcendent experience.

Second, neither Fackenheim's nor Campbell's proposals explain how a philosophical account of autonomy grounded in the unconditioned can be constructed, without privileging pre-existing philosophical standards of truth (ie of coherence, logic, reason etc). While they may wish to assert that the fundamental ground of (philosophical) truth is located within the Lifeworld, as was the case with Heidegger, they do not explain how such a philosophical account can be constructed without negating the fundamental authority of the transcendent experience.

Following on from both of these points, neither do Campbell's and Fackenheim's proposals explain how a philosophically-vindicated account of autonomy can be constructed without privileging the authority of (philosophical) standards of truth over and above the transcendent standards within other realms of human activity.[54] I argue below that a maximally-capacious, philosophically-vindicated account of autonomy must recognise the *equality* of standards through which any transcendent values (ie beauty, justice, love) are realised, regardless of the nature of the sphere of practice (ie aesthetic, political, domestic etc) providing the context for their realisation.

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[54] It must be acknowledged that these criticisms of Fackenheim's and Campbell's proposals reflect the pluralist requirements of the proposed account, and that Fackenheim states in his essay 'Metaphysics and Historicity' that his concern is to reflect not on truth generally, but only *philosophic* truth. Fackenheim, 'Metaphysics and Historicity', p148.

Third, an account of truth which is grounded on insight into the human situation and is vindicated on the grounds that such insight opens the door to trans-cultural understanding and communication, does not give adequate account of the capacities needed to overcome prejudices and engage receptively with different others when these prejudices are deeply held and serve to sustain one's very identity. Consequently such an account is unable to appeal, as Campbell's comments suggest it would like to, to a principle of communicability for its vindication. Certainly Campbell would seem to be correct to acknowledge the vital role that accepting one's own limitations and the constraints of one's situation can play in opening up one's receptivity to different others. I suggest, however, that a more adequate account will identify both the more formal requirements which must be met, as well as the more substantive capacities which must be exercised, to explain how prejudices, particularly when engaged face to face with different others, can be overcome. Only then can an historicist account of autonomy (or human being) be vindicated on the grounds that it stands as the commonality required if there is to be un-coerced communication between different others, and following on from this, trans-cultural justice.

In the following chapter I argue that the shortcomings in Campbell's and Fackenheim's proposals can be addressed by employing the two-part Kantian structure identified above in conjunction with an ontological framework which affirms the equality of transcendent values, and of the spheres of practice from which these values derive their authority: first, the notion of an experiential ground of truth located within the Lifeworld is identified with the unconditioned component of the two-part Kantian structure (associated above with the world-disclosing function of language), and accorded epistemic priority. Second, the philosophic quest for a philosophically justified account of truth is addressed by employing the component of this Kantian structure which accounts for the possibility of shared authoritative standards of truth, justice and beauty etc., by grounding the authority of these standards, fundamentally, in the former unconditioned component.

I turn now to introduce substantive content to the principally formal features of the account identified so far.

Chapter 6: Rethinking Practical Reason

In this chapter I put substantive flesh on the formal, structural features of the proposed account of autonomy. I begin by considering examples from two rival approaches to theorising practical reason, the 'universalist' and the 'particularist'.[1] I argue first, that the substantive content of several particularist accounts reflects the two-part Kantian structure so far identified. I consider universalist objections to the justification of these accounts, and reconsider O'Neill's universalist, Kantian treatment of the problem of theorising practical reason. I then reflect on why Hans George Gadamer did not provide a fully philosophically-vindicated account of truth and

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[1] Ronald Beiner's *Political Judgment* represents a major contribution to theorising judgment in a way that also seeks to marry Kantian, universalist, formal commitments, with the Aristotelian focus on substantive deliberative virtues or capacities. Beiner argues that a 'comprehensive' theory of political judgment is required which 'comprehends' the 'moment of truth' in both Kantian and Aristotelian judgment (pp102-104). Also informed by Arendt's reading of Kant, Beiner takes from Kant's aesthetic judgment the formal conditions of disinterestedness and critical distance identified with the judging spectator. From Aristotle he takes the substantive account of the action-oriented practical wisdom of the person of experience, maturity and understanding. At this level of generality there is considerable overlap between Beiner's political judgment, and autonomy as creative action. A major difference, however, is that Beiner orients the substantive content of his account of political judgment around a humanist teleology, whereas I am seeking to construct a maximally-pluralist account. Consequently for Beiner: 'Political judgment in the fullest sense confronts particulars in the light of the whole, namely, the whole of what is meaningful and important to human beings' (p158); 'In judging the political world we exercise taste, but it is a faculty of taste as all-encompassing as human experience itself. To possess the ability to render political judgments with exemplary skill is to comprehend the entirety of human experience, for only someone with a thorough acquaintance with the full range of needs, desires, potentialities of human beings can possibly succeed in delivering a conclusive verdict on any given aspect of political life' (p165). In contrast I seek to construct not a political, but a generic account of judgment/practical reason, which appeals for its authority to capacity for receptive attention and responsive judgment, in the light of the standards, practices and understandings, unique to a particular realms of human activity of 'spheres of practice'.

hermeneutic judgment. I argue that there are reasons for Gadamer's omission that run in parallel with both the distance Heidegger places between his ontological investigations and traditional foundationalist philosophy, and the clear distinctions Kant makes between his formal, critical philosophy and his more empirical observations: just as Heidegger defends the *existenziell*, the experiential ground of the *existenzial*, Kant defends the unconditioned ground of the autonomous subject, Gadamer defends indeterminacy of the judgments of exemplars within cultural traditions. I then highlight the commonalities between Habermas' appropriation of Kantian justificatory strategies and my own. I defend the present account, particularly in the light of a recent reformulation of communicative truth, in which Habermas emphasises the interdependence of truth as warranted justification within discourse and experiential knowledge within the lifeworld.

In the second half of the chapter I fully delineate autonomy as creative action within vital spheres of practice, and the two-tiered epistemological framework.

So far I have argued that the proposed account will feature a two-part Kantian structure which first, grounds moral and aesthetic judgments in the unconditioned, that which transcends the culturally-particular. This transcendent component must be located within and not beyond the Lifeworld. Second, the account must also contain sufficient determinate content to explain how trans-culturally authoritative standards can be realised. The authority of these standards must be grounded in that which transcends the culturally-determined, the first component of the account.

In Chapters One and Two I considered Kant's more substantive views on aesthetic judgment and the Public Use of Reason, focussing in particular on the faculty of enlarged mentality. Here the impartiality of judgment was explained by distancing and abstracting from the object. Within Kant's account of the Public Use of Reason the communicability of judgment was explained by assuming that shared standards of discursive reason were held in common. Arendt suggested that the communicability of aesthetic judgments could be explained by assuming that shared examples or exemplars are held in common. These would serve a similar function to the schema within Kant's formal account of empirical judgments. In the light of

contemporary pluralism and historicism, as well as O'Neill's Kantian, constructivist reading of the constitution of reason, I argued that to assume that discursive standards of reason are held in common is to presuppose too much.

According to O'Neill's constructivist reading of Kant, (practical) reason's authority can be vindicated as the commonality which must be assumed if moral order between an otherwise uncoordinated plurality is to be grounded in un-coerced communication. In Chapter Three I argued that in the light of contemporary Difference views on trans-cultural justice and 'responsibility to otherness', as well as Dignity commitments to accommodate socio-cultural diversity, the account of autonomy must stand as the *minimally-determinate* commonality that must be assumed to realise trans-cultural justice, where justice is conceived as proceeding from engagement between different others (rather than shared standards of justice). The account must also explain how unconscious aversions which might block communication and lead to oppression of minority groups can be made conscious, critically evaluated and if warranted, overcome or revised.

In Chapter Two I argued that if, as Kant held within his reflections on the Public Use of Reason, the authority of shared standards of reason derive their authority, fundamentally, from faculties needed to critically evaluate existing authoritative standards of reason, so that potential communication between an otherwise uncoordinated plurality can take place, then there are grounds for revising Kant's (as well as Rawls' and O'Neill's) view that the Public use of Reason presupposes shared standards of discursive reason.

I am seeking, then, to introduce substantive content to a minimally-determinate, maximally-capacious account of practical reason/autonomy which (1) is grounded in the transcendent commonality located within the Lifeworld and (2) can explain how actual trans-cultural communication which does not privilege the socio-cultural forms (ie understandings, values, standards etc.) of any particular culture can take place, and issue in trans-culturally authoritative standards.

The Two-part Structure of Particularist Accounts of Practical Reason

In contrast to universalist accounts which focus on justification of action-coordinating principles, the focus within particularist accounts of practical reason is more on the virtues or substantive capacities needed for ethical action.[2] Particularist conceptions of practical reason are often identified as derived from Aristotelian conceptions of the *phronimos*, or person of practical wisdom.[3] As Nussbaum explains, less emphasis is placed here on rules, and more on 'being a certain kind of person: one who sees situations in a certain distinctive way', capable of perceiving the salient features of the case at hand, and of responding accordingly.

> The subtleties of a complex ethical situation must be seized in a confrontation with the situation itself, by a faculty that is situated to address it as a complex whole. Prior general formulations lack both the concreteness and flexibility that is required. They do not contain the particularizing details of the matter at hand, with which decision must grapple; and they are not responsive to what is there, as good decision must be.[4]

In spite of the emphasis on perceptual faculties needed to respond openly and sensitively to context within particularist accounts, within the following examples I do nevertheless find resources with which to begin to address both the Dignity concern to account for shared, authoritative, action-coordinating standards, as well as the Difference commitment to otherness. Here these two major, contrasting concerns within contemporary political thought, which I have argued are also reflected in the structure of Kant's accounts of autonomy and non-cognitive judgment, appear as first, the receptive, perceptual faculties needed to attend to the particularities of a

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[2] On principle-based vs virtues-based accounts of practical reason see O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*, particularly Chapters 1 and 4; also McDowell, 'Virtue and Reason', pp331-350.

[3] Aristotle, *The Nicomachean Ethics*, p213

[4] Nussbaum, 'The Discernment of Perception: An Aristotelian Conception of Private and Public Rationality', p69. Nussbaum, p70; See Aristotle, Nicomachean Ethics, 1137b.

situation, and second, acknowledgement that existing understandings and/or shared standards are also integral to the judging process.

Simone Weil's Attention

One of the most influential, more contemporary sources of particularist accounts of practical reason, is Simone Weil's conception of 'attention', capacity for open receptivity to an object. Weil characterises this as 'an effort, the greatest of all efforts perhaps'. She also describes attention as a 'negative' effort, one which requires that we 'press on and loosen up alternately, just as we breathe in and out'.[5]

As well as emphasising receptive attention to the object, Weil states that response to the object of one's attention must be informed by existing standards or commitments. That is, in addition to the negative, receptive characteristics of attention, attention also requires certain knowledge and experience. The following passage reflects these two aspects to attention, both its passive, receptive and hence unformed aspect, as well as its more active, unformed aspect:

> Attention consists of suspending our thought, leaving it detached, empty, and ready to be penetrated by the object; it means holding in our minds, within reach of this thought, but on a lower level and not in contact with it, the diverse knowledge we have acquired and we are forced to make use of. Our thought should be in relation to all particular and already formulated thoughts, as a man on a mountain who, as he looks forward, sees also below him, without actually looking at them, a great many forests and plains.

[5] Weil, 'The Simone Weil Reader', p48. Weil also indicates that attention is integral to respectful engagement with another: 'Not only does the love of God have attention for its substance, the love of our neighbour, which we know to be the same love, is made of this same substance. … The love of our neighbour in all its fullness simply means being able to say to him: "What are you going through?" ... This way of looking is first of all attentive. The soul empties itself of all its own contents in order to receive into itself the being it is looking at, just as he is, in all his truth. Only he who is capable of attention can do this'. Weil, 'The Simone Weil Reader', p51.

> Above all our thought should be empty, waiting, not seeking anything, but ready to receive in its naked truth the object that is to penetrate it. [6]

Aristotelian Phronesis

Martha Nussbaum also characterises Aristotelian practical reason (or practical wisdom, *phronesis*) as requiring both open-receptivity to the object or context, as well as responsiveness to pre-existing knowledge and commitments. She likens the practical reason of the Aristotelian *phronimos* to the improvisation of musicians, or the deliberations of a good doctor or ship's captain. Just as the improviser must exercise less determinate perceptual faculties needed to respond to context while also drawing on knowledge of the formal constraints of the music, (ie harmonic, melodic and rhythmic structures) so too must the doctor or ship's captain exercise capacities needed to respond to the particularities at hand, in addition to being guided by information and rules found in textbooks or manuals.[7]

Highlighting similarities between the exemplary Aristotelian *phronimos* and the improvising musician, Nussbaum argues that the Aristotelian judge will attend and respond, not only to the evolving situation and other performers; attention to context will *also* include attention to the performer's own background values and concerns. This background information, in conjunction with the new experience gained through receptive attention, will guide the agent's response. Consequently, she argues that the 'perceiver who improvises morally' can be viewed as '*doubly* responsible': first, 'to the history of commitment' and second, 'to the ongoing structures that go to constitute her context'.[8]

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[6] Weil, 'The Simone Weil Reader', p49.

[7] Nussbaum, 'The Discernment of Perception: An Aristotelian Conception of Private and Public Rationality', p71.

[8] Ibid., p94.

Older Notions of Practical Reasoning as Exemplary Originality

The two aspects of open receptivity to context, as well as responsiveness to one's existing commitments, standards, knowledge etc. also appear within Gadamer's account of older notions of exemplary, original judgment and action. These he presents as precursors to the modern ideal of genius, which is strongly shaped by Kant. Concepts Gadamer identifies with older conceptions of original, exemplary action include, along with Aristotle's *phronesis*, common sense (*sensus comunis*), Henri Bergson's interpretations of *Les Bons Sense*, tact, taste and hermeneutic judgment.[9] Referring to the faculty of tact as it functions in the human sciences, Gadamer writes that its exercise requires

> ... a particular sensitivity and sensitiveness to situations, and how to behave in them, for which we can not find knowledge from general principles. Hence an essential part of tact is inexplicitness and inexpressibility. … tact … is not simply a feeling and unconscious, but is at the same time a mode of knowing and of being … [it presupposes] ... a trained receptivity towards the 'otherness' of the work of art or of the past.[10]

Gadamer's Hermeneutic Judgment

Gadamer's own account of hermeneutic judgment, certainly of the most influential particularist accounts of practical reasoning, again features this two-part structure. As the proposed account most closely resembles Gadamer's tradition-dependent account of practical reasoning, I introduce it here in some detail.

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[9] For Gadamer's discussion of these 'Leading Humanistic Concepts', which he contrasts with Kant's doctrines of taste and genius, see Gadamer, *Truth and Method*, pp10-55.

[10] Ibid., pp17-18. Gadamer is referring here to both Hermann Helmholtz's speech (of 1862) on the natural and human sciences, and 'Bildung' (understood to designate 'the properly human way of developing one's natural talents and capabilities'(p11).

Reflecting the unconditioned, unformed component, Gadamer, following Heidegger, seeks to recover for 'truth' the notion of *aletheia* as disclosedness and un-concealment.[11] Gadamer writes

> All that is asked is that we remain open to the meaning of the other person or the text ... a person trying to understand a text is prepared for it to tell him something.[12]

Gadamer is not suggesting, however, that true understanding is available to us merely through open receptivity and immediate perception of an object:

> [T]his openness always includes our placing the other meaning in a relation with the whole of our own meanings or ourselves in a relation to it… a hermeneutically trained mind must be, from the start, sensitive to the text's quality of newness. But this kind of sensitivity involves neither 'neutrality' in the matter of the object nor the extinction of one's self, but the conscious assimilation of one's own fore-meanings and prejudices.[13]

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[11] Carl Page writes that Gadamer's conception of hermeneutic judgment proceeds from the Heideggerian view that '[t]here is a dimension of truth or human cognitive openness to the world that is the precondition for any methodical activity whatsoever, a human truth that occurs in advance of and therefore governs all particular inquiries as the ground of their possibility'. Page, *Philosophical Historicism and the Betrayal of First Philosophy*, p57. Gadamer is also concerned to revitalise a concept of truth as indicative of more than just warranted justification. He writes in *Truth and Method* 'the hermeneutic phenomenon .. is not concerned primarily with amassing ratified knowledge which satisfies the methodological ideal of science yet it is concerned, here too, with knowledge and with truth'. Gadamer, *Truth and Method*, pxi quoted in Richard Bernstein, 'From Hermeneutics to Praxis', *Hermeneutics and Praxis*, ed. Robert Hollinger, University of Notre Dame Press, Notre Dame, Indiana, 1985, p273.

[12] Gadamer, *Truth and Method*, p238. See also Bernstein, 'From Hermeneutics to Praxis', p274. Gadamer insists that understanding is always tempered to the 'thing itself', typically linking truth (*Wahrheit*) with the thing (*die Sache*) itself See. Hans-George Gadamer, 'The Problem of Historical Consciousness', *Interpretive Social Science: A Reader*, eds. P. Rabinow and W.M. Sullivan, University of California Press, Berkeley, 1979, p159, quoted in Bernstein, 'From Hermeneutics to Praxis', p293.

[13] Gadamer, *Truth and Method*, p238.

Gadamer is careful to distance his account from Husserl's phenomenological approach which identifies knowledge of an object with the overcoming of all prejudices and being with the immediacy of the object. He is also critical of the scientific ideal of true knowledge of an object as requiring elimination of the subject.[14] Acknowledging the importance of pre-existing knowledge and shared standards, for Gadamer, knowledge of an object involves an act of *appropriation*: in addition to an open receptivity, 'fore-meanings' are needed to shed 'the light in which what is there is made evident'.[15]

Gadamer characterises fore-meanings in a variety of ways. Within his account of hermeneutic understanding of an historical text, he speaks of the *horizons* without which we would be unable to engage with and interpret, indeed 'experience' the text in question.[16] In a 'provocative formulation' he describes fore-meanings or horizons as constituted by 'prejudices' – those pre-conceptions we bring from the past, through which we interpret and understand what is before us.[17]

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[14] Gadamer argues that the appeal to immediacy, whether of bodily nature, or of the 'Thou' making claims on us, or of the impenetrable factualness of historical change, or of the reality of the relations of production, has always been self-refuting in the sense that it is not itself an immediate attitude, but a self-reflective activity. Ibid., p308.

[15] Gadamer characterises hermeneutics not, as has traditionally been the case, as three independent activities – 'understanding', 'interpretation' and 'application' but rather views these as three internally related moments of the single process of understanding. This process has as its focus the 'integration of the moment of application' or more accurately, appropriation into hermeneutic understanding Bernstein, 'From Hermeneutics to Praxis', pp272-276.

[16] Gadamer, *Truth and Method*, p272. The achievement of true understanding can be described as the fusing of horizons. In the case of the historical text the process of reaching understanding includes projecting an historical horizon as a context of meaning for the text, attaining an awareness of the otherness of this horizon, and then recombining it with the horizon of one's present so that a unity of horizons is achieved. Gadamer explains that '[i]n a tradition this process of fusion is continually going on, for the old and new continually grow together to make something of living value…' Gadamer, *Truth and Method*, p273.

[17] Gadamer writes 'it is not so much our judgments as it is our prejudices that constitute our being. This is a provocative formulation, for I am using it to restore it to its rightful place

The process of overcoming prejudices that hermeneutic judgment requires, can be stepped out as follows.

First, the 'hermeneutically trained mind' will be open to what the text has to say, to its 'newness'. Rather than viewing oneself in a subject-object relationship with a tradition, this relationship is better viewed as an I-thou relationship: one is open to what the tradition has to say to the extent that one is willing to have one's own view altered through the encounter.

Second, one makes one's own 'anticipatory ideas', one's fore-meanings or prejudices *conscious*. Only through an encounter with an object– a text, a work of art for example – will these prejudices become activated or 'stimulated' and will it be possible to identify what they are. This requires that one must also *suspend* the validity of one's prejudices 'for so long as our mind is influenced by a prejudice, we do not know and consider it as a judgment'. And to become aware of a prejudice there must be some kind of stimulus – which an encounter with an historical text for example can provide, as it 'has already asserted itself in its own validity'. Gadamer argues that the 'suspension of all judgments, and hence, a fortiori, of prejudices' has the 'structure of a question', the essence of which is the 'opening up, and keeping open, of possibilities'. [18]

Third, having identified one's own prejudices, one can begin to isolate the meaning of the object from one's own meaning. Through 'the dialogical encounter with what is handed down to us' we 'test and *risk* our prejudices'. Confrontation with the 'thing itself' can shake or shock us out of our

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as a positive concept of prejudices that was driven out of our linguistic use by the French and English Enlightenments'. Hans-George Gadamer, *Philosophical Hermeneutics*, trans. & Edit. D.E. Linge, University of California Press, Berkeley & Los Angeles, 1976, p9 quoted at Bernstein, 'From Hermeneutics to Praxis', pp275-276.

[18] Gadamer, *Truth and Method*, p266.

comfortable pre-conceptions, almost forcing us to revise our existing pre-judices.[19] Gadamer clarifies that this is a process not of blocking the tradition (or denying one's own fore-meanings or preconceptions), but rather, of becoming conscious of blocks in tradition (or oneself) to the thing itself. Only in the subsequent interplay with what is encountered, only in the ongoing course of inquiry, attempted assimilation, and reflective recapitulation, can one begin to sort out 'the productive prejudices that enable understanding from the prejudices that hinder or lead to misunderstandings'.[20]

We can see then, that all of these particularist accounts reflect the world-disclosing focus on openness to what is there, *as well as* the action-coordinating concern with shared standards. Here the broad contours of the substantive features of an account which addresses both responsibility to otherness and to well-founded action are suggested. The first consists of a moment of receptive attention, the capacity to *suspend* or drop off pre-existing understandings, prejudices or forms generally, and attend receptively to context or 'what is there'. The second is the moment of responsive judgment, in which one appropriates, revises, or revitalises one's pre-existing values, commitments, cultural standards etc. in response to what is there.

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[19] Bernstein, 'From Hermeneutics to Praxis', p275. Here Gadamer is recognising that we can not distinguish between 'enabling' and 'blind' prejudices through a solitary or monological act of pure self-reflection, (as Kant suggests in his account of enlarged mentality) as this is ontologically impossible, for our prejudices are constitutive of our being. Gadamer argues it is our 'reflexive' freedom that explains how it is part of the nature of man to be able to break with tradition, to criticise and dissolve it. See also Gadamer, *Truth and Method*, p263.

[20] Page, *Philosophical Historicism and the Betrayal of First Philosophy*, p64, quoting Gadamer, Truth and Method, 2nd rev ed. Joel Weisheimer and Donald G. Marshall, New York, Crossroad, 1989, p295.

Justification of Particularist Accounts of Practical Reason

From the point of view of this substantive content, particularist views on practical reason would provide valuable material for the proposed account. Contemporary particularist accounts have been criticised, however, for being unable to provide an account of practical reason of sufficient determinate commonality, to explain how shared standards of justice and truth could have trans-cultural, if not universal validity.[21]

Two major approaches to justifying particularist accounts of practical reason can be identified, the first grounded in shared or individual normative commitments unique to particular times and places, the second, more radical view, focussed on faculties of perception.[22]

According to the first approach, good judgment is identified with the *phronimos* who is understood to 'inhabit[s] a particular time and place whose practical wisdom his judging articulates'.[23] Reflecting the influence of Hegel, for communitarian writers who have followed Aristotle, the bedrock of practical reason and justified action is found in the deepest practices and

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[21] See O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*, pp16-37.

[22] Ibid., p14. O'Neill notes that both are derived from an 'historicist" rather than 'traditionalist' appropriations of Aristotle's phronesis or practical wisdom. Instances of the latter appear in Stoic and Christian writing and employ a perfectionist account of the Good to orient 'not only good character (hence virtue) but the natural law (hence justice)' as well. In her introduction to the conflict between virtue ethicists and universalists O'Neill identifies the 'traditionalist' universalist reading as 'committed to an historically invariant account of proper human functioning, hence of the Good for Man, and hence of the inclusive standards both of virtue and justice, whose observance would constitute that good. Elsewhere O'Neill characterises the distinction between two major forms of particularism as between intuitionists who identify the task of the ethical judge with 'intuiting, perceiving, appreciating or appraising the salient characteristic, including any salient ethical characteristics, of particular situations' and those tradition-based accounts which view practical judgment as 'guided by the precedents of those who judge well within a given tradition'. O'Neill, *Bounds of Justice*, pp56-57.

[23] O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*, p15.

norms of a tradition or community.[24] These 'Aristotelians' include communitarians, virtue ethicists, and certain radical feminist writers.[25]

While these accounts generally view perceptual capacities of sensitive attunement and responsiveness to context as integral to practical judgment, they explain that these are learned within practices and cultural traditions. Here moral knowledge is understood to be grounded in shared practices, judgments, practices of interpretation and application of concepts, as well as propensities and sensibilities.[26]

A related, more individualist particularist account grounds practical reason in the 'fundamental commitments or projects of a given person's life or identity'.[27] Here ethical judgment is viewed as rooted in responses to particular situations that reflect *individual* sensibilities, attachments, commitments and senses of integrity.[28] O'Neill identifies this approach with 'more Wittgensteinian writers' such as Bernard Williams who 'sees personal projects and commitments as a framework beyond which our reasoning can not pass'.[29]

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[24] O'Neill, *Bounds of Justice*, p19; O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*, pp17, 21.

[25] O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*, p15 Note 7. See also p17 note 12. O'Neill identifies Hans-Georg Gadamer, Alasdair MacIntyre, Michael Sandel, Charles Taylor, Carol McMillan, Carol Gilligan amongst others with this form of Aristotelianism. Bagnoli also suggests that this view of the source of authority can be identified with McDowell's accounts of practical reasoning. See Bagnoli, 'Moral Constructivism: A Phenomenological Argument', p30.

[26] Bagnoli, 'Moral Constructivism: A Phenomenological Argument', p129 For example, while McDowell's virtues-based approach to ethics emphasises the importance of faculties of perception and sensitivity to context, he also recognises that ethical concepts can only be understood and mastered if we are familiar with the practice or tradition to which the concept belongs.

[27] O'Neill, *Bounds of Justice*, pp19-20.

[28] O'Neill, 'Practical Reason: Abstraction and Construction', p17. Italics Added.

[29] O'Neill, *Bounds of Justice*, p20. In graphic example used to illustrate his position, Williams reflects on the perversity of the case of the husband who, when shipwrecked looks for a

Collective and individualist, particularist accounts share a view of practical reason which 'takes as its premises those features of our lives which we cannot "go behind" or assume away without undercutting our very sense of self, community or identity'. Here '[t]here are no more basic norms, commitments or values in terms of which these could be vindicated'.[30]

The second, more radical particularist approach to practical reason, which, like the first, is informed by Aristotle, but perhaps even more strongly by 'certain readings of Wittgenstein', focusses less on the constraining features of a particular time and place (ie tradition, culture and the particular individual commitments of the agent). Instead, 'in the end', in this view 'practical wisdom is concerned with the ultimate particular, which is the object of perception'.[31] This view of practical reason which O'Neill attributes to theorists including Winch, Philips and (sometimes) McDowell emphasises attention to the particular: 'perceiving, appreciating, attending to, responding to, appraising, intuiting or picking out the salient moral features'.[32]

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reason to determine whether to rescue his drowning wife or an equally drowning stranger. He suggests that such a person 'has one thought too many'. On this view the 'integrity, commitments and attachments and other personal projects of particular lives provide a [comparable] bed-rock which cannot itself be put into question'. O'Neill, *Bounds of Justice*, p20. See Bernard Williams, *Ethics and the Limits of Philosophy* Fontana, London, 1985, p200.

[30] O'Neill, *Bounds of Justice*, p20. O'Neill explains that according to this perspective '[i]n thinking of an act as required by public attachments and loyalties, or as wrong because it is cruel, or required if we are not to harm one we love, we do not (it is claimed) simply invoke some arbitrary principle, but one that is constitutive of a shared or individual sense of identity, and so part and parcel of what we are. It is not that we think our way towards such matters or that we decide on them, but that they are part of the framework of our lives'.

[31] Ibid., p15. See Aristotle, Nicomachean Ethics 1142125.

[32] O'Neill, 'Practical Reason: Abstraction and Construction', pp17-18. (Footnote 13).

To the extent that this understanding of the ground of practical reason does not view pre-existing forms, understandings, standards etc. as vital to the deliberative processes, it is of limited relevance to the proposed account. However, to the extent that it does recognise the role of determinate forms, but in the end accords a fundamental role to faculties needed to attend receptively to particularities of context, its formal justificatory structure corresponds most closely to the proposed two-part structure.

Critique of Particularist Justifications

At least in the first instance, particularist accounts which appeal to the authority of shared standards and practices or individual commitments unique to particular times and places to ground their accounts of practical reason, offer little to account for the *commonality* needed to explain how trans-cultural justice might be realised, at least in a way that does not privilege the standards and practices internal to a particular socio-cultural group. As O'Neill argues, if an account of practical reason as grounded in particular norms and commitments is to avoid the charge of arbitrariness, it must explain how the commitments and attachments (which are often celebrated for being) internal and unique to particular cultures, practices and individuals, can be understood by 'outsiders'. O'Neill's position here reflects her Kantian view that the authority of claims to reason or truth must be grounded in their potentially universal interpretability or communicability.[33]

Critics of particularists who view personal commitments to particular practices and traditions or to individual sensibilities and attachments as

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[33] She argues that critics of particularists who ground their ethical principles 'in "our" traditions indulge in a cosy but dangerous nostalgia for a world now lost' and refuse to engage with the radically pluralist and interdependent world 'we actually inhabit'. O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*, p20. O'Neill also criticises the more individualist particularists who 'may bravely do without the nostalgia' but 'still have little of use to say about interaction with those whose sensibility differs'.

bedrock for ethical justification, also argue that because these commitments are so bound up with personal identity, those associated with them have no way of critically evaluating or 'go[ing] behind' them. Consequently such 'social traditions and personal commitments may manifest corruption as readily as virtue'.[34]

In reply to the second criticism, defenders of particularist practical reason argue that they are unfairly criticised for being intrinsically conservative, wrongly characterised as arguing from what is to what ought, from what is actually respected and internalised to what ought to be. O'Neill argues that the charge of conservatism can easily be countered when traditions are viewed as open to interpretation and re-interpretation, and hence revision from the inside. Traditions, practices and personal orientations can incorporate strategies and guidelines for critical evaluation, debate, reflection and revision.[35] However, this appeal to internal criticism seems to fail to meet major objections:

First, since the critical standards employed within traditions and practices and by individuals will themselves vary so as to cohere with the great diversity of meanings 'internal' particular to traditions, practices and individuals, such an account will still fail to explain resolution of conflicts *between* traditions, practices and individuals – for example in cases of international justice or of gender equality where the 'very boundaries and categories of justice are at issue'.

Second, appeals to the idea of 'internal' critique will still be subject to the same charge of arbitrariness, the standards and practices of critique

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[34] Ibid., p21.

[35] Ibid., pp21-22. Internal critique of actual norms and commitments and reflexive self-criticism, rather than timeless appeals to fixed identities, are then taken as the bottom line in particularist practical reasoning. O'Neil notes that this view is held by many communitarians and is 'put eloquently' in Alasdair MacIntyre's *After Virtue.*

themselves being 'no less arbitrary than the traditions and sensibilities to which they are internal'. For example, traditions which (by some standard) demean and devalue certain agents will probably endorse procedures and practices of self-criticism which also demean such agents. And as I have argued above, behaviours and actions contributing to discrimination, marginalisation and oppression are often unconscious and/or deeply entrenched; conscious commitment to practices of critical assessment and impartial evaluation can themselves camouflage these behaviours – or even further entrench them.[36]

O'Neill argues that the first charge of ethnocentrism, which would seem to follow from the view that the authority of one's judgments is inextricably tied to 'insider's reasoning', is also difficult to dispel. First, once insiders become aware of the 'diversity and fecundity of traditions and identities', it will be hard for insiders to adhere to the conviction that 'only the traditions or identities "we" have ourselves internalized have authority'. Second, within highly porous and multicultural societies we are constantly engaged with people who hold other internalised norms. Practical reason grounded in tradition-dependent norms and commitments would seem to assume insufficient commonality from which to build an account of the possibility of communication taking place across cultural boundaries. O'Neill concludes that norm-based reasoning and ethical commitments that are grounded in one's own individual and traditional-dependent, internalised commitments 'will not suffice in a pluralist world'.[37]

Before responding to these criticisms of particularist practical reason, I first consider O'Neill's own response to the problem of arbitrariness.

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[36] Ibid., p22; O'Neill, *Bounds of Justice*, p22.

[37] .O'Neill, *Bounds of Justice*, p23

O'Neill's Kantian, Constructivist Account of Practical Reason Revisited

O'Neill addresses her concern to overcome the 'arbitrariness' she identifies with both tradition-dependent and perceptual particularist accounts of practical reason by constructing, as we have seen above, a Kantian account of action-guiding principles of practical reason. Hers is a 'critical' account of practical reason which she argues differs from norm-based or tradition-based version in its view of both the 'scope of the reasoning', the 'fixity of identities' and the 'mutual-accessibility of traditions'. She argues that the Kantian conditions of potential communicability, publicity and hence universality she drew out of her reflections on Kant's Categorical Imperative can provide a means with which to structure thought and action that links insider's and outsider's reasoning: thought and action must be organised 'along lines' which can be accessible. This minimal requirement stipulates that practical reasoning must not only be followable in the sense of being *intelligible* to others, but also *recommendable* to others.[38]

> [p]ractical reasoning must adhere to principles which have 'the form of law', which could be principles for all, and that any attempt to persuade others to principles which do not meet this condition must lack authority. Since in our world reasoning must reach beyond the like-minded, our practical reasoning must often be based on principles that are widely accessible.[39]

O'Neill's more substantive reflections on practical reason present it as a question of searching 'for ways of acting which meet the constraints of all the principles (and varied goals) which they see as important...'. This may involve for example balancing the need for order with commitment to liberty within a democracy, achieving stable labour relations as well as high profits within an industrial context, or within a university department, balancing

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[38] Ibid., pp23-25.

[39] Ibid., p25.

demands for good research and good teaching as well as 'other less edifying performance indicators'.[40]

> Practical judging simply seeks to identify some act or pattern of action that adequately meets the several requirements of the case.[41]

This may involve some compromise, or some of the requirements not being completely fulfilled. In other cases there may be no room for trade-offs. For example when designing a stove, the stove that does not heat fails, even if it is very, very safe. She concludes that rather than viewing practical judgment as a question of balancing different principles or obligations,

> [t]he real task of practical judgment is simply to seek ways of acting that respect multiple obligations … from a practical point of view, when action is an object of deliberation and decision rather than cognition, we are not dealing with individual acts: these have yet to be performed. Rather we consider the propositional content of action that might be undertaken: we consider possible act-descriptions and consider the feasibility, the implications, the desirability and the morality of action that might be done under these descriptions.[42]

O'Neill contrasts her Kantian approach with particularist accounts which she refers to as a 'more or less intuitionist' view of ethical judgment which hold that 'ethical judgment can be achieved without appeal to principles'. According to O'Neill, 'ethical particularists' characterise the task of ethical judgment in a manner that resembles Kant's conception of reflective judgment, according to which, the particular is given, and the task is to find the appropriate universal or description. She describes this particularist or intuitionist account the exercise of judgment in terms of 'intuiting, perceiving, appreciating or appraising any salient ethical characteristics, of particular situations'.

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[40] Ibid., pp60-61.

[41] Ibid., p61. She notes that this may include enforcing measures to respect cultural diversity.

[42] Ibid., pp61, 46-47.

O'Neill rejects this view (she finds it 'puzzling' and 'perplexing') first, because particularists depict capacities to judge as 'quasi-perceptual' and there are 'many disanalogies between ethical and perceptual judgment, particularly when judgment involves resolution of disagreement'. Second, she is unable to understand the 'assimilation of practical to perceptual judgment' because the latter presupposes that the matter that is being judged is 'to hand' – whereas in her view, practical judgment 'does not have the matter that it judges to hand'.[43]

O'Neill is equally critical of 'tradition-based' practical judgement which is 'guided by the precedents of those who judge well within a given tradition' – such as is the case when legal decisions appeal to the precedents established by good judges, when reference is made to the teachings of Jesus or the Buddha or the judgment of other exemplars or the Aristotelian *phronimos*. She argues that this view fails to account for how reasoning can fulfil Kant's accessibility requirement.[44]

Critical Evaluation of O'Neill's Kantian Practical Reason

O'Neill's critique of the arbitrariness of tradition-dependent, 'perceptual' particularist accounts of practical reason are (to a point) persuasive. As I have argued above, a persuasive, relevant account of practical reason, which addresses both the Dignity action-coordinating commitment to account for trans-cultural standards, as well as the demands of contemporary global interdependence and radical socio-cultural diversity, must be able to stand as the universal commonality required in order to account for the possibility of trans-cultural justice.

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[43] Ibid., p56.

[44] Ibid., p57.

Further, O'Neill's suggestion that the charge of arbitrariness and internalist reasoning within tradition-dependent accounts of practical reasoning might be overcome through an account of critical capacities needed to revise, reinterpret and critically evaluate existing standards within traditions is a constructive one. It is also suggestive of Gadamer's account of hermeneutic judgment which grounds the authority of tradition-dependent standards in capacity to drop one's existing prejudices/standards and critically evaluate them in the light of what is there. As O'Neill rightly points out however, for such a critical standard to itself avoid the charge of internalism and hence arbitrariness, its accessibility and authority across traditions or cultures must be explained.

O'Neill's own Kantian account of critical reason, however, requires overly-determinate commonality as it presupposes that practical reasoning entails reflection on possible courses of action in the light of principles, and consequently *presupposes* facility with discursive faculties of reason. As I have argued at length, to respond adequately to Dignity, accommodationist and pluralist commitments, as well as to responsibility to otherness, an account of practical reason is required which presupposes minimally-determinate commonality, and so far as is possible, avoid privileging any particular culture, practice or form of reason. Further, such an account must identify the critical faculties needed to become aware of, critically evaluate and if warranted revise existing prejudices/preconceptions which may block communication and understanding when engaged in dialogue with different others.

Here O'Neill's rigid adherence to Kant's distinction between reflective and subsumptive judgment, and insistence that practical reason must be, as is the case within Kant's formal account of moral reasoning, concerned with the latter, unfortunately seems to debar her from giving particularly the substantive content of particularist accounts of practical reason due

consideration.[45] Further, O'Neill's account reflects the Kantian view that critical distance and abstraction are core conditions of impartiality: practical reason centrally entails critical faculties of thought, and takes place *away* from the object in question. This view fails to explain how prejudices of which one is not yet conscious, can be overcome, something which may require actual engagement with the object in question (most significantly other human beings).

While O'Neill's criticisms of particularist accounts of practical reason which focus on *either* internalist, tradition-dependent standards on the one hand *or* indeterminate, perceptual faculties on the other, are persuasive, O'Neill does not give adequate consideration to the possibilities of meeting the objections to each by incorporating *both* elements within a single account of practical reason – which I have argued existing particularist accounts to some extent, already do.

How then to construct a particularist account of practical reason which acknowledges the role that both faculties of perception as well as tradition-dependent standards play in ethical and political deliberation, and which can also stand as the commonality needed to account for trans-cultural communication, understanding, and following on from this, justice?

Here I turn back to the particularist accounts above which I have suggested exhibit a structure which will enable me to address both the action-

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[45] According to O'Neill, ethical particularists' characterisation of the task of ethical judgment is reasonably like Kant's conception of reflective judgment in which the particular is given, and the task is to find the appropriate universal or description. O'Neill adheres to the Kantian view of moral reason – or practical reason – as neither a question of reflective nor subsumptive judgment and rejects both of these characterisations of judgment as possible sources for a contemporary account, arguing, following Kant, that practical reason 'does not focus on particulars, but on types, on possible action (policies, attitudes); it is undertaken on the way to enacting a particular act' …. 'in moving towards acting'. Ibid., pp56, 57.

coordinating and world-disclosing functions of language; both responsibility to act and to otherness. More specifically, Gadamer's account of hermeneutic truth reflects the two-part Kantian structure I have argued is needed to construct an account of practical reason as it consists of first, a moment of receptive attention in which existing prejudices are suspended, brought into awareness and critically evaluated, and second, the revision of tradition-dependent standards in the light of this experience. Here the moment of suspension of prejudices can be viewed as corresponding to the moment of unconditioned, transcendent experience within the Lifeworld. Here is an account of practical reason which, as is the case within Kant's accounts of autonomy and aesthetic judgment, can explain how there might be shared authoritative standards, which are fundamentally grounded in the unconditioned.

This suggests an historicist concept of practical reason/autonomy which, as Fackenheim and Campbell argued it must, identifies human being/historicity with the struggle between the unconditioned and the finite. However, the proposed account constitutes a more inclusive account than was suggested within either Fackenheim's or Campbell's proposals, as autonomy is identified here not with a particular (quasi-philosophical) insight arising through confrontation with and acceptance of particular conditions, but rather, the process of revising or revitalising, through receptive attention and responsive judgment, authoritative standards, techniques, standards, prejudices etc. (ie authoritative forms generally) within the tradition or practice in which one is engaged.

This would seem to begin to resemble the tradition-dependent yet universalist account of practical reason, which assumes the minimally-determinate commonality sufficient to account for trans-cultural standards I am looking for. However, it remains to explain how this can be defended as a *philosophically-vindicated* account of practical reason, without thereby according prior authority to philosophical standards, and in so doing, either negating the fundamental authority attributed to the process of receptive attention (the unconditioned moment of suspending one's existing standards in particular), or privileging philosophic standards of reason (ie as warranted assertability).

Philosophical Vindication and the Autonomy of Traditions or Spheres of Practice

Here we are confronted again with the same problem which emerged out of Fackenheim's reflections on Kant and Heidegger within the preceding chapter: how to construct a philosophically vindicated account of practical reason and truth which is grounded in the unconditioned (ie the transcendent beyond or within human experience), which for Kant is vital to affirming moral agency and for Heidegger to grounding truth in disclosure, but without in so doing appealing to the higher authority of determinate philosophical standards, which would trump Kantian agency and Heideggerian disclosure.

This is a problem which defenders of moderately-relativist, tradition-dependent accounts of practical reason, including, most notably, Gadamer and MacIntyre, have also come up against.[46] In both cases a primary concern to defend the autonomy and authority of exemplars, acting within the context of particular practices and traditions, has *precluded* their construction of a (tradition-dependent) philosophically-vindicated account of practical reason and truth.[47]

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[46] Richard Bernstein describes Gadamer as explicitly setting out 'to defend and elucidate the legitimacy of speaking of the truth of works of art, texts, and tradition' and provide a broader conception of truth than the scientific conceptions born of the enlightenment. Bernstein, 'From Hermeneutics to Praxis', pp281-282.

[47] This is also a problem within Walzer's *Spheres of Justice*. Walzer seeks to defend the autonomy and integrity of a plurality of spheres of justice, particularly from erosion by the distributive logic of 'dominant' goods or values (ie such as money or power). However, to do so he must at least implicitly appeal to some overarching good – such as justice. As Crowder argues, Walzer's defence of complex equality would seem to rest on an account of plurality of belief or cultural relativism, as he seeks to defend 'social goods' not because of any *inherent* qualities attributed to these goods, but because they derive meaning from a particular society. Crowder observes that this is indeed Walzer's official doctrine. However, at the same time it is hard to make sense of Walzer's advocacy of 'complex equality' without a deeper, moderate-universalist notion which can explain commitment to the defence of autonomy of spheres, or even to acknowledge that there are separate spheres (Crowder suggests a moral position akin to that of 'value pluralism' is required

Gadamer and the Problem of Truth

This might seem a highly improbable claim, particularly in Gadamer's case, given his main project within *Truth and Method* has been well described as the elucidation of 'the distinctive type of *knowledge and truth* that is realized whenever we authentically understand'.[48] However, in spite of his repeated use of phrases such as 'listening to the truth' and the 'truth of tradition', Gadamer nowhere defines explicitly what he means by truth. And contrary to the view of critics such as Richard Bernstein, who argues that Gadamer implicitly appeals to a universally authoritative discursive form of reason, this is no mere omission or oversight on Gadamer's part: to construct such an account would undermine his commitments to defend 'tradition' and 'exemplars' as the primary authority on which hermeneutic truth rests; to define explicitly the difference between 'productive' and 'non-productive' prejudices would threaten to undermine the autonomy and authority of the judgment of exemplars, as it would seem that appeal would have to be made to the authority of standards *external* to particular practices to do so. While Gadamer provides many indications of the substantive content of his

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here). Crowder writes that he suspects Walzer's theory is an unstable combination of cultural relativism and value pluralism: Walzer 'appeals to relativism when stressing cultural and historical variety, but relies on a tacit value pluralism when distinguishing among different goods and their "spheres" and advancing complex equality as a normative standard.' To the extent that he is doing the latter is 'a universalist and metaphysician after all'. Crowder, *Liberalism and Value Pluralism*, pp255-256. (Note 3) This epistemic difficulty is evident in statements such as 'Justice is rooted in the distinct understandings of places, honours, jobs, things of all sorts, that constitute a shared way of life. To override those understandings is (always) to act unjustly'. Walzer, *Spheres of Justice: A Defence of Pluralism and Equality*, p314. Here Walzer is wanting to affirm that the meanings of social goods are culturally *relative*. However, to defend this notion he appeals to what is traditionally the universalist notion of justice.

[48] See Bernstein, 'From Hermeneutics to Praxis', p273. As Gadamer writes in the Introduction to *Truth and Method*, his purpose is to delineate and defend the experience of truth within philosophy, art and history as these are 'all modes of experience in which a truth is communicated that can not be verified by the methodological means proper to science.' Gadamer, *Truth and Method*, pxii.

understanding of what the realisation of hermeneutic truth entails, at different times identifying it with 'tradition', 'exemplars', 'effective historicist consciousness', 'effective history' and 'experience', he is careful to avoid presenting his work as a philosophically-vindicated account.

MacIntyre and the Problem of Truth

Similar epistemic difficulties are evident within MacIntyre's work. MacIntyre defends the rationality of traditions of evaluative inquiry. However, he never provides a clear definition of truth. Throughout his work MacIntyre clearly retains his commitment to a tradition-dependent truth which claims *more* than merely culturally-relative warranted-assertability. Yet he is ultimately ill-equipped to defend this commitment with more than strong assertions. For example, in one passage he endorses the view that assertions 'of universal import' within rival traditions can be made, grounded in an ontological perspective which adherents hold to be true. Here he asserts that 'no such tradition is or can be relativistic either about the truth of its own assertions or about truth'. He also acknowledges that 'these claims to truth are supported within different traditions by appeal to rival and de facto incommensurable standards of rational justification'. However, he provides little to support his claim that there is 'nothing paradoxical' about such assertions, asking 'How can this anti-relativistic commitment to truth coexist with an awareness of those facts about different and rival standards of rational justification internal to different traditions which seem … to invite a relativist description?'. In the end, MacIntyre does not resolve this problem but leaves us with the question, stating that he is 'strongly inclined to think that any contemporary philosophy which does not find this question inescapable and central must be gravely defective'.[49]

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[49] Alasdair MacIntyre, 'A Partial Response to My Critics', *After Macintyre: Critical Perspectives on the Work of Alasdair Macintyre*, eds. John Horton and Susan Mendus, University of Notre Dame Press, Notre Dame, Indiana, 1994, p295. See Alasdair MacIntyre, *Whose Justice, Which Rationality?* Duckworth, London, 1988, pp356-359, on how a concern with truth can be theorised in different ways.

I am arguing, then, that a particularist, tradition-dependent account of practical reason which closely resembles Gadamer's account of hermeneutic judgment and features the two-part Kantian structure which grounds the authority of tradition-dependent judgments, fundamentally, in a moment of unconditioned experience within the Lifeworld, would seem to be a promising basis from which to construct a maximally-capacious, historicist, tradition-dependent account of practical reason. However, a major epistemic obstacle to presenting this as a philosophically-vindicated account, remains to be addressed.

Before I turn to address this question, and fully flesh out the proposed account of practical reason, I first consider the epistemic status of Karl-Otto Apel's and Jurgen Habermas' Neo-Kantian proposals. Their work as well as Stephen White's appropriations of Habermas' communicative ideal provide a point of comparison with which to highlight key epistemic features of autonomy as creative action. The work of Habermas and Apel is of particular relevance to the present project as it also appeals to Kantian criteria of communicability and universalisability to defend their discourse ethics. I argue below, however, that while their appropriations of Kant would seem to go a long way towards addressing the Difference call for a conception of practical reason which identifies the conditions under which actual communication between a plurality of different others might be achieved, the epistemological framework they employ to do so requires that they privilege standards of philosophical truth, debarring them from adequately addressing responsibility to otherness and contemporary pluralism. Further, in spite of his more recent efforts to construct a conception of truth as pertaining to more than warranted assertability (ie truth as warranted justification), Habermas' account still fails to capture the sense in which truth discloses what is there.

Neo-Kantian Discourse: Alternative Justificatory Approaches

As indicated above, Stephen White, Iris Marion Young and other theorists of pluralist and deliberative democracy strongly informed by the post-modernist and communitarian critiques of Enlightenment reason, single out Jurgen Habermas' work as providing a most fruitful Kantian re-formulation of communicative reason.[50] His is a positive response to postmodernism's 'all-encompassing critique of reason', which also extends and revises Kant's moral theory. As is the case with the proposed theory, Habermas builds on the Kantian criteria of universalisability and communicability. However, Habermas proposes the principle of *discursive* reason, interpreted 'in terms of the intersubjectivity of communicative relations' rather than self-reflective subjectivity, as the foundation from which to criticise prevailing authorities. In contrast to Kant, for whom the focus is on the subject of consciousness, here it is the structure of speech that must be uncovered.[51] Here the 'a priori of experience' (of Kant's account of Pure Reason) is thus replaced with the 'a priori of argumentation'.[52]

As is also the case within the proposed account of autonomy, within Habermas' theory, the aim is to ground the authority of reason in the conditions which must be met for actual un-coerced communication or

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[50] Larmore for example pays tribute to Habermas as 'one of the very few indisputably great moral and social thinkers of our time'; 'We must situate our own thought with respect to his in order to know what it is we truly think, even when we then find that we must disagree.' Larmore, 'The Foundations of Modern Democracy: Reflections on Jurgen Habermas', p205

[51] Hans-Klaus Keul, 'Subjectivity and Intersubjectivity: Remarks on the Concept of Freedom in Kant and Habermas', *The Journal of Value Inquiry*, 36, 2002, pp255-256. See Jurgen Habermas, 'Morality and Ethical Life', *Moral Consciousness and Communicative Action* MIT Press, Cambridge, Massachusetts, 1990, p203.

[52] Habermas presents discourse ethics as giving up Kant's dichotomy between the intelligible and the phenomenal realms: 'The unbridgeable gap Kant saw between [them] becomes, in discourse ethics, a mere tension manifesting itself in *everyday communication* as the factual force of counterfactual [ie ideal, quasi-transcendent] presuppositions'. Habermas, 'Morality and Ethical Life', p203.

dialogue to take place, as distinct from the merely formal conditions of potential communicability or interpretability, which we have seen grounds Kant's 'Public Use of Reason' and 'enlarged mentality'.[53] In contra-distinction to Kant's notions of pure rationality, Habermas acknowledges that basic domains of knowledge or structures of rationality are not given a priori, 'unsullied by empirical circumstances'. They are instead constituted historically under determinate empirical conditions.[54]

The Epistemic Status of the Discourse Ethics

As discussed above, in his earlier work Habermas employs the notion of the context of discourse to identify dialogical conditions of freedom and equality, under which consensual truth can be realised. The 'ideal speech situation' is presented as an unavoidable supposition of discourse: it represents neither an empirical phenomenon nor merely a construct but something that is 'operationally effective'; it is anticipated in every discourse. Habermas views this as *more* than a merely regulative idea. Rather it is a constitutive condition of rational speech. While it (and rational speech with it) may or may not be a delusion, the norms of rational speech contain a

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[53] Keul, 'Subjectivity and Intersubjectivity: Remarks on the Concept of Freedom in Kant and Habermas', p255. As Hans-Klaus Keul writes, for Habermas 'The solipsism of a subjectively centred reason must be dissolved in the intersubjective structures of communicative reason'(p253).

[54] Habermas calls these structures of rationality 'quasi-transcendental', a term he uses to signal that while he is appropriating Kant's idea of the transcendental, he is also deliberately breaking away from the Kantian distinction between the empirical and a priori, arguing that Kant fails to take into account the contingent conditions under which possible objects of study have come to be formed. He argues that in contrast to transcendental logic which is concerned with the properties of pure theoretic reason, the logic of the natural and cultural science deals with methodological rules for the organisation of processes of inquiry. These also have a transcendental function but arise from actual structures of human life. Campbell, *Truth and Historicity*, p338. See Jurgen Habermas, *Knowledge and Human Interests*, trans. J Shapiro, Heinemann, London, 1972, p194.

practical hypothesis: that this is the ideal that we can try to realise by social and political action.[55]

Habermas originally presented this theory as overcoming the charge of the cultural relativity of a consensual theory of truth, as explaining how understandings of a whole culture can be rationally rejected. Later, however, he acknowledges that it would be senseless to want to judge the totality of a way of life by appealing to 'individual aspects of rationality'.[56] Here he agrees with Peter Winch, that all forms of life represent concrete 'language games' constituted by their own particular practices, patterns of interpretation, forms of socialisation, attitudes etc..[57] He also endorses Mary Hesse's argument that every theory which makes claims to truth in a particular conceptual framework will include 'its own anticipations of the nature of the world as far as it is relevant to that theory'.[58]

In his more recent work Habermas has employed that notion of communicative rationality to reconstruct the idea of the ideal speech situation. Here he is seeking to 'identify empirically the actually existing possibilities for embodying rationality structures in concrete forms of life', to delineate the 'universal features of communication, which in different cultural and historical situations take on different concrete forms of manifestation'. Significantly, however, within this later work, he sees the ultimate test for this account as its empirical, theoretical and critical fruitfulness for social theory and research. [59]

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[55] Campbell, *Truth and Historicity*, p347. See Habermas, 'Wahrheitstheorien', pp258-259.

[56] Campbell, *Truth and Historicity*, p349. See Jurgen Habermas, *The Theory of Communicative Action*, trans. Thomas McCarthy, vol. 1: Reason and the Rationalization of Society Beacon Press, Boston, 1984, ppi, 73.

[57] Campbell, *Truth and Historicity*, p349.

[58] Ibid., p348 quoting Mary Hesse, 'Science and Objectivity', *Habermas: Critical Debates*, eds. J. B. Thompson and D. Held, Macmillan, London, 1982, p109.

[59] Campbell, *Truth and Historicity*, p350 quoting Translator's Introduction to Habermas, *The Theory of Communicative Action*, pp405-406 n.412.

Responding to the Epistemological Status of Habermas' Communicative Theory

In his later work then, Habermas shies away from his earlier view that the communicative procedures of discourse ethics represent substantive universal standards which must obtain if there is to be rational consensus that is un-coerced. This retreat must be supported from the point of view of respecting the diversity of forms of rationality, and in contrast to O'Neill's and Rawls' accounts, Habermas thus avoids imposing the authority of discursive standards of reason on political and other forms of practice. However, at the same time this retreat comes at a heavy price from the point of view of theorising the possibility of trans-cultural communication and justice.

As we have seen Habermas' response to the spectre of epistemic- and cultural-relativism was to ground the substantive status of his account (ie his claim that these are in fact the conditions which must be met if there is to be un-coerced consensus) in the conditions of possible rational inquiry. But once he grounds the substantive status of his account in the conditions which must obtain within particular kinds of practice, in the light of the Kantian criterion of accessibility, he restricts the scope of the claim to substantive status of the account, and further, the authority of the discursive standards of rationality he defends, to the practices of rational inquiry themselves. Consequently he can no longer make substantive claims concerning the nature of reason's authority generally – a conclusion which coheres with his view that the ultimate test of his account is not philosophical, but practical – its 'empirical, theoretical and critical fruitfulness for social theory and research'.

Habermas' later epistemic retreat contrasts with Karl-Otto Apel's more recent interpretation of the epistemic status of Discourse ethics.[60]

Carl Otto Apel's Universalism

In an article entitled 'The Problem of Justice in a Multicultural Society, the Response of Discourse Ethics' Apel concurs with post-structuralists and communitarians that 'at least the negative thesis of the non-independence of our value judgments in respect to our cultural traditions can hardly be contested'. However, he goes on to argue that insight into the cultural-dependence of the genesis of values, does not imply that they are culture-dependent with regard to their validity.[61]

As Apel explains and we have seen above, Critical Theory appropriates the Kantian notion of the 'transcendental' fact of reason. Here the validity of principles of justice can be 'confirmed' through a test of 'transcendental pragmatic grounding': that those who seriously argue 'can not deny – on pain of performative self-contradiction – that he or she presupposes already, together with his or her claim to truth as intersubjective validity, the validity of certain moral claims and duties with regard to all possible discourse partners'.

> Here it shows that it simply is not true that the participants in such a
> discourse are completely determined by or, as it were, immersed in the

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[60] See, for Habermas' rejection of Apel's strong claim that a transcendental-pragmatic justification in ethics can claim the status of an ultimate justification: Habermas, 'Discourse Ethics: Notes on a Program of Philosophical Justification', pp44, 85-86, 96-98. Habermas argues that 'it is by no means self-evident that rules that are unavoidable *within* discourses can also claim to be valid for regulating action *outside* discourses … a separate justification is required to explain why the normative content discovered in the pragmatic presuppositions of *argumentation* should have the power to *regulate* action' (pp85-86). Italics in original.

[61] Apel, 'The Problem of Justice in a Multicultural Society, the Response of Discourse Ethics', pp157-158.

> culture-bound pre-understanding of the life-world. The current analysis of
> the 'pre-understanding' which is usually inspired by Heidegger, Gadamer,
> or Wittgenstein, is incomplete … It does not reflect on the conditions of the
> possibility and validity of philosophical discourse *about* (the a priori of) the
> culture dependent pre-understanding of the lifeworld. [62]

Apel argues that in 'the moral conditions of the discussion about human rights' a 'transcendental basis of the incontestable kernel of human rights that are not culture-dependent' is to be found. These 'fundamental claims and duties' include the two internally connected principles: that of 'the equal rights of all possible discourse partners and the equal co-responsibility of all for the discovery and solution of morally relevant problems'. Apel asserts that this ultimate foundation of discourse ethics also holds with regard to the discursive treatment of moral problems within a multicultural society.[63]

Here we see that Apel is grounding the substantive status of the 'incontestable kernel of human rights', in the same way that Habermas grounded the substantive status of conditions of rational enquiry: in human practices, in this case the practice of philosophical reflection and inquiry, which I have argued in the light of historicist insights, must be viewed as necessarily socio-culturally conditioned, and hence as co-ordinated by socio-culturally particular standards, understandings etc.

Apel is quick to acknowledge that it does not follow from this that philosophy's 'transcendentally grounded principles' can provide concrete solutions for multicultural contexts.

> [W]e must not assume that the concrete solutions of the morally and
> judicially relevant problems of a multicultural society could be reached
> through a philosophical deduction of material norms from the

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[62] Ibid., p159.

[63] Ibid.

> transcendentally grounded principles. This device of classical rationalism would go completely against the spirit of discourse ethics. [64]

Nevertheless he does still claim that discourse ethics provides procedural principles of justice and co-responsibility which have a regulative standing within realms of practice.

> The methodological point of discourse ethics is rather a *procedural* one in so far as the principle of justice and co-responsibility is only a regulative idea for the practical discourses – to be opened again and again – between representatives of the different cultures and life-forms and the different constitutional states.

> …According to the fundamental procedural norms of discourse ethics, it has to be demanded that, even in cases of persistent dissent, we try at least to reach a discursive consent about the reasons of the dissent and its unresolvability in order to facilitate judicial compromises … [communicative ethics points] to a means of settling intercultural conflicts by discourse. And, as one knows, at this point a philosopher usually – not only for lack of time – has to break off.[65]

In contrast to Habermas' more recent position, Apel claims that the principles of discourse ethics do have regulative authority within multicultural contexts – that discourse ethics' procedures for achieving discursive consent must be employed in cases of inter-cultural conflict.

White's Appropriation of Habermas' Discourse Ethics

White defends a similar reading of Habermas' communicative ethics.[66] He endorses Habermas' move away from the idea of universally valid normative principles of justice, and, as we have seen above, argues that

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[64] Ibid., p160.

[65] Ibid. .

[66] White *Political Theory and Postmodernism*, p21. White endorses Habermas's move from a critique of rationality grounded in the monological subject to one grounded in intersubjective dialogue.

Habermas' communicative ethics provides a necessary component of a plausible, radical pluralist view of democratic social order. White characterises Habermas' communicative proceduralist approach as maintaining that there are 'certain universally valid procedural constraints implicit in our very idea of commitment to a rational agreement means', procedures which 'legitimately constrain our arguments about the justness of a given norm'; that 'there is an obligation, implicit in linguistic interaction, to justify the norms one proposes to others'.[67]

White acknowledges that Habermas is clearly privileging here a notion of normative justification derived from the culture of modernity and deeply implicated in the liberal tradition. Habermas is claiming that part of the communicative competence of individuals in modern societies is the 'know-how of rational justification'; that in the case of normative conflicts, antagonists who are committed to reason know that 'a just outcome can emerge only if the norms proposed are ones to which all who are affected by them can agree'.[68]

White argues, however, that 'it seems likely that one cannot discuss justice and collective action in any sustained fashion without implying at least some elements of metanarrative'. He defends Habermas' employment of a metanarrative which at least 'implies a story about the learning and unlearning that modernity has engendered'. Further he argues that Habermas' model of discourse ethics can be embraced within White's own pluralist orientation, designed to address the sense of responsibility to otherness, on the proviso that Habermas' metanarratives of modernity, communicative ethics and 'associated metanarratives of reason and process' are considered within a broader framework, that continually calls attention

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[67] Ibid., p138.
[68] Ibid., p139.

to lack of sensitivity to the blindness to difference they generate.[69] White reinterprets Habermas' metanarrative of reason and progress, and the minimal procedural criteria of justice he offers, in 'a more clearly pragmatic way'.

Normative disputes can be viewed as resolved by agreeing to stay as far apart as possible, by resorting to violence, or by 'sticking to the idea of persuading each other through speech'. If we go with the latter, then some criteria of practical normative reason are needed to guide discourse. If disagreement breaks out at this level, then the discourse must move to the 'narrative dimension', until one is forced to interpret and defend one's choice of criteria of normative justification by appealing to the most general and comprehensive level of narrative about one's culture. Here

> we have a narrative that is recounted to those with whom we radically disagree, with the intention of showing them that they could freely recognize themselves as having a place within it, could find some sense of affirmation within it.[70]

Responding to Apel's and White's Interpretations of Discourse Ethics

I have argued that reason's authority is grounded in its standing as a 'strategy of communication' required if there is to be un-coerced communication and hence justice, given human plurality. Reason's authority lies fundamentally in capacities needed to critically evaluate and if necessary revise existing standards, prejudices etc. Within pluralist contexts this requires first, capacity to suspend one's existing forms (values, commitments, prejudices), bringing prejudices or 'aversions' which have

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[69] White argues that here Habermas's communicative ethics and the metanarratives it implies, can be interpreted as telling only one part of a larger story White is telling about modernity, a story that 'has no foundation in a traditional philosophical sense'. … 'It simply offers itself as a candidate for the position of the most satisfactory general interpretation of modern individuality and social life'. Ibid., pp140-141.

[70] Ibid., pp141-142.

hitherto been unconsciously held, and which might be blocking the possibility of communication with different others, into conscious awareness. These prejudices, preconceptions, aversions etc. can then be critically evaluated and if warranted revised in response to what is there.

By privileging standards of discursive reason in cases where there is no resolution of conflict through debate, White's and Apel's approaches affirm the a priori authority of parties (including judicial authorities) who adhere to the authority of prevailing *discursive* standards of modern reason. On the face of it, Apel's view that disputes must be opened again and again would seem to cohere well with a pluralist position which also addresses responsibility to otherness. However, social institutions can not function effectively if conflicts are continually unresolved. Apel suggests that in cases which fail to reach discursive consensuses, the conflict must be handed over to judicial review. From the point of view of the proposed account, however, this is not a sufficiently demanding response to human plurality and difference. In the proposed view only if the participants in the dispute resolution process have exercised capacities needed to bring into awareness possible unconscious aversions or prejudices which might be jeopardising potential communication with different others, and in this way gone beyond the demands of reaching agreement by adhering to existing normative communicative standards, can they in good conscience concede that resolution of conflict by non-coerced means, to this point, has failed.

This is to reject both White's view that at the point of radical disagreement through argument, one is justified in concluding the communicative process by simply recounting one's narrative, as well as Apel's view that at this point one must hand the procedure over to judicial resolution of conflict. (I am assuming here that judicial processes are themselves grounded in discursive standards of reason rather than capacities for receptive attention.) According to the proposed account, the only point at which one is justified in employing other than communicative means (ie receptive engagement) to resolve conflict, is when all efforts at communication (ie grounded in receptive attention and responsive judgment) have failed. At this point it must be conceded that all efforts at non-coerced resolution of conflict have failed, and each party is faced with the choice of either withdrawing, or acknowledging that they will employ coercive measures to bring the conflict to some, at least interim, conclusion.

Habermas' Later Account of Truth as More than Justified Truth Claims

In Chapter Four I employed Richard Campbell's and Andre Gorz's critiques of Habermas' failure to recognise that which transcends the culturally-bounded within discourse ethics and his sociological view of the Lifeworld, to show that this failure leads to an epistemological position which reduces truth to merely warranted assertability. In a later (1996) essay Habermas is clearly committed to affirming a conception of truth which does more than assimilate truth to justification, taking issue with Rorty's pragmatism which employs a coherentist conception of truth, which Habermas argues is at the expense of 'everyday realist intuitions' concerning truth.[71]

I outline Habermas' more recent position, this time to show that in spite of seeking to embrace a realist sense of truth *as well as* truth as warranted assertability, Habermas remains focussed on the action-coordinating function of language, and does not adequately address either the deeper sense of truth as disclosure of what is there, nor to responsibility to otherness.

Habermas argues that Rorty rightly shifts from a representationalist/correspondence model of knowledge to a communication model of knowledge. However, and as we saw Caputo argue above, in rejecting the correspondence, 'Mirror of Nature' view of knowledge, Rorty also reduces 'being in touch with reality' to 'being in touch with a human community': 'Rorty the nominalist, stands in the empiricist tradition and

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[71] Here Habermas asks: How can truth be distinguished from 'rational acceptability', and does 'the pragmatic turn which Rorty rightly demands in the face of semantically fixated approaches', require an anti-realist understanding of knowledge? Habermas seeks to take into account 'everyday realist intuitions' from *within* the linguistic paradigm, through an idealisation of the process of justification itself. Jurgen Habermas, 'Richard Rorty's Pragmatic Turn', *On the Pragmatics of Communication*, ed. Maeve Cooke, Polity Press, Cambridge, 2002, c1998, pp344,348,345.

refs epistemic authority to the received social practices of "our" respective communities', regarding the 'urge "to see social practices of justification and more than just such practices" as nonsensical'.[72] This pragmatic, linguistic turn takes the primacy of a common language as its starting point. 'Intersubjective' refers here to 'the prior commonality of a linguistic preunderstanding or horizon of the lifeworld'. This is a perspective which is presupposed by participants within a communication community. Here the standard of objectivity has passed from earlier notions of private certainty, to public practices of justification; truths are accessible only in the form of rational acceptability.[73]

Habermas argues that when confronted with truth as merely warranted justification, however, older intuitions about truth come onto the scene; 'memory of a correspondence between thought and reality or of contact with reality that is sensorially certain' are awakened. The question arises as to how, in that case, 'the truth of a proposition can still be isolated from the context in which it is justified?'; a means must be found to link (1) 'the

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[72] Ibid., pp350-351 quoting from Rorty, *Philosophy and the Mirror of Nature*, p390. Habermas explains that 'Just as Locke and Hume referred their mentalist reflections to the consciousness of empirical persons, Kant referred his to the consciousness of subjects "in general"', linguistic reflections can also be referred to communication communities. However, for Rorty, once knowledge is viewed as a matter of 'conversation and social practice' rather than a mirror of nature, we "will not be likely to envisage a metapractice which will be the critique of all possible forms of practice" as such 'a formal-pragmatic attempt would be a relapse into foundationalism'. Quoting Rorty, *Philosophy and the Mirror of Nature*, p171. Habermas argues that Rorty's 'nominalism' comes from a wrong understanding of the history of philosophic paradigms. This sees a *discontinuity* between (1) the ancient and medieval concern with metaphysics (things), (2) the seventeenth to nineteenth century concern with epistemology, (ideas) and (3) 'enlightened contemporary philosophical scene with philosophy of language (words). For Rorty 'the intersubjectivity of the lifeworld, which subjects inhabit in common, *displaces* the objectivity of a world that a solitary subject confronts'; 'the paradigm shift transforms perspectives in such a way that epistemological questions as such are passé'. (pp352-353).

[73] Habermas, 'Richard Rorty's Pragmatic Turn', p356.

unconditional claim that points beyond all the evidence available to us' to (2) 'evidence that we bring to bear in our contexts of justification'. [74]

Habermas addresses this question by proceeding from the observation that there has to be an *internal* relation between truth and justification. He asks, how, otherwise, would it be possible to explain that a justification of *p*, successful according to our standards, points in favour of the truth of *p*, although truth is not an achievement term and does not depend on how well a proposition can be justified? What is at issue here is that 'contextualist' question: given only knowledge of what we believe about the world, and how our beliefs fit together, how can we show that these beliefs are likely to be true?[75]

Habermas argues that the 'pragmatic turn' pulls the rug from scepticism which might arise from recognition that we cannot 'get outside of' language: simply, '[i]n everyday practices we cannot use language without *acting*'.

> As actors, that is, as interacting and intervening subjects, we are always already in contact with things about which we can make statements. Language games and practices are *interwoven*.
> ... the view that we, as socialized individuals, always already find ourselves within the linguistically disclosed horizon of our lifeworld, implies an unquestioned background of intersubjectively shared convictions, *proven*

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[74] Ibid. . 'These images, which are still suggestive despite having lost their bearings, are behind the question of how the fact that we cannot transcend the linguistic horizon of justified beliefs is compatible with the intuition that true propositions fit the fact.' Habermas argues that from 'within the linguistic paradigm, the truth of a proposition can no longer be conceived as correspondence with something *in the world*' for that would require that we somehow 'get outside of language' while using language. However, this does not mean that 'the coherence of our beliefs is sufficient to clarify the meaning of the concept truth'. (p357) With the coherence idea of truth a 'fundamental aspect' of the meaning of the truth predicate; 'the notion of unconditional validity – is swept under the carpet'. (pp357-358)

[75] Ibid., p358 quoting from Michael Williams, *Unnatural Doubts* Princeton University Press, Princeton, New Jersey, 1996, p249.

> *true in practice*, which makes nonsense of total doubt as to the accessibility of the world.[76]

What is at stake here is not a question of epistemology (ie 'it is not a matter of being or appearance', or 'the correct representation of reality') but 'everyday practices that must not fall apart'.

> Reaching understanding cannot function unless the participants refer to a single objective world, thereby stabilizing the intersubjectively shared public space with which everything that is merely subjective can be contrasted.[77]

It is a functional requirement of our processes of cooperation and communication that we suppose an 'objective world that is independent of our descriptions'.[78]

To explain how truth as warranted assertability ('a justification successful in our justificatory contexts'), is connected to 'the context-independent truth of the justified position', Habermas puts forward a 'Janus-faced' notion of truth that mediates between behavioural certainty and discursively justified assertability'.[79] Here he appeals to his earlier distinction between 'action' and 'rational discourse'. Within discourse, what is normally, naively held-to-be-true in action, is released from the 'mode of behavioural certainty', and is subject to argumentative discourse.

Habermas argues that the intuition that truth pertains to more than merely warranted assertability can be explained by underlining the *interdependence* between the discursive process leading to the achievement of warranted-assertability and the 'truth' within action contexts.

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[76] Habermas, 'Richard Rorty's Pragmatic Turn', pp359,358. (Italics added in first paragraph)

[77] Ibid., p359.

[78] Ibid.

[79] Ibid., pp362-363.

As we have seen within the realm of discourse, what is at issue is truth as warranted assertability. Habermas argues, however, that these justified truth claims, nevertheless, on returning back to the context of action, can produce new 'behavioural certainties'.[80] At the same time, argumentation (within discourse) can serve as troubleshooter with regard to behavioural certainties which have become problematic, only if guided by truth in a context-independent – that is – unconditional sense.

> … [t]he performative need for behavioural certainty rules out a reservation in principle with regard to truth, even though we know, as soon as naïve performance of actions is interrupted, that truth claims can be vindicated only discursively – that is, only within the relevant context of justification. Truth may be assimilated neither to behavioural certainty nor to justified assertability. … Whereas in everyday practices 'truths' prop up behavioural certainties, in discourse they provide the reference point for truth claims that are in principle fallible.[81]

Habermas is arguing here that a realist conception of truth which admits more than truth as justification can be defended by appealing to the observation that some kind of pragmatic, experiential knowledge *confirms* these truth claims made within 'discourse'.

Habermas' 'Truth' Fails to Disclose What is There

Habermas' account of our unconditional, transcendent intuitions concerning truth is interesting in this context because, as is the case with the proposed account, it does acknowledge two distinct aspects of truth. However, Habermas' account would seem to fall short, both of our intuitive sense of truth, and the demands of an historicist, pluralist conception.

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[80] Ibid., pp363-364. Here Habermas is appealing to the idea that everyday routines require that we rely on unqualified trust in the knowledge of lay people as much as experts (p364).
[81] Ibid., p364.

First, Habermas' account requires a disjunction between the two elements of truth: Habermas argues these elements are interdependent. However, on the one side, the deeper meaning of truth is only revealed within action; on the other, validity claims can only be tested within discourse. In strong contrast with Gadamer's account of hermeneutic truth as realised through a continual process of reinterpretation and revision of existing understandings, Habermas' account conjures up a stop-start image, in which we must bracket our doubts until such time as we can take a break in the action and critically evaluate our beliefs. Within our everyday actions we must hold as 'true' and fixed our pre-existing understandings of the world (until they are in some way or another unsettled).

Second, I suggest that Habermas' account of truth as more than warranted assertability still appeals to a notion of *justification* rather than disclosure. We know that something is true because we test it within our everyday experience. And when this experience raises doubts about what we hold to be true, this requires verification through discourse – which is concerned with the warranted assertability of the claim. This account still does not address the sense in which 'truth' discloses, points out what is there.

Third, and most importantly from the point of view of constructing an account fully adequate to responsibility to otherness, Habermas' account assumes that human beings normally hold as fixed their existing pre-conceptions of the world; as acting subjects have to cope with the world, they cannot avoid being realists in the context of their lifeworld.[82] Here I suspect Habermas is mistakenly conflating a mode of comportment of (what Habermas refers to as an unreflexive) 'trust', with a sense of knowledge that

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[82] Habermas argues that when we adopt a reflexive attitude we know that all knowledge is fallible, however, in everyday life we cannot survive 'in this persistently fallibilist way'. 'The organised fallibilism of scientific inquiry can deal hypothetically with controversial validity claims indefinitely … [t]his model is not suitable for the lifeworld'. He argues that 'everyday routines rest on an unqualified trust in the knowledge of lay people as much as experts'(p364).

this is how things in fact *are*. Here Habermas loses an important distinction which can be made between on the one hand, a mode of comportment Robert Solomon and Fernando Flores call 'authentic trust': an ability to engage in the world in a way that is open to and embraces the new and different, grounded in trust in one's own ability to respond appropriately to the unknown, and on the other, an habitual confidence (that other drivers will keep on their side of the road for example) needed to negotiate through the routines of life. An account which affirms openness to the other, seeks to keep the 'paradox of ethicality' alive, and promotes the creativity and autonomy which can arise only when we can loosen the hold of our preconceptions, will employ an ontological perspective which affirms and promotes a stance of authentic trust – rather than reinforcing a habitual stance which expects that the world is, and will be, how we currently perceive it to be.[83]

Towards a Two-tiered View of Truth

As noted above, the proposed theory shares much in common with Habermas' Neo-Kantian account of rational consensus. Both employ the Kantian transcendental justificatory strategy of appealing to necessary, formal conditions which must be met if shared authoritative standards are to be grounded in communication (or freedom and equality) rather than force. Further, both accounts are also defended as substantive: Habermas defends the conditions of the ideal situation as those which must actually be presupposed when entering into a rational dispute; I too defend the proposed account of autonomy as the commonality which must be assumed if trans-cultural justice is to be realised.

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[83] See Robert Solomon and Fernando Flores, *Building Trust: In Business, Politics, Relationships, and Life* Oxford University Press, Oxford, 2001; For a seminal distinction between trust and confidence see Niklas Luhmann, 'Familiarity, Confidence, Trust: Problems and Alternatives', *Trust: Making and Breaking Cooperative Relations*, ed. Diego Gambetta, Basil Blackwell, New York, 1988, p97.

However, on both counts I employ very different epistemological and ontological assumptions – which in turn enable me to defend the proposed account as better equipped to address contemporary pluralism, historicism and responsibility to otherness.

As we have seen, in his earlier work Habermas defended his account of discursive rationality as a universalist account of reason – which was criticised for privileging a particular, modernist view of rationality; later he retreated to a practice-relative view of the source and of the scope of the authority of the account, depriving his account of resources with which to account for trans-cultural communication and standards. We also saw, in Chapter Four, that Campbell criticised Habermas' account of discursive rationality for equating truth with warranted assertability, and failing to 'disclose what is there'. While I have just argued that Habermas *does* attribute substantive status to his account by appealing, in his earlier work, to the test of something like what we saw Apel refer to as 'transcendental pragmatic grounding', and in later work, to a practical test of fruitfulness within the realms of social inquiry, it would seem that in spite of his more recent defence of a realist conception of truth, his account still falls short of explaining how truth discloses what is there.

The proposed account avoids either giving way to cultural- and epistemic-relativity or defending an unvindicated universalism, by employing a two-tiered epistemological framework which at once acknowledges the cultural/practice dependence and hence relativity of authoritative standards, without thereby denying the possibility of either substantive truth (and other transcendent) claims, or trans-culturally authoritative standards. This is achieved by grounding the authority of these otherwise culturally/practice-relative standards on the transcendent capacity for receptive attention to what is there. According to this two-tiered epistemology, not only are authoritative, transcendent standards grounded in culturally-relative practices, they are *also* the product of a moment of receptive attention:

First, the theory is defended as having warranted justification by appealing to standards acknowledged to be internal to a particular tradition – in this case standards of the sphere of practice of political philosophy (however that may be defined). In particular I defend the theory on the grounds that it

responds adequately to contemporary debates within political thought, while also sustaining continuity with the Kantian tradition.

Second, the authority of these (otherwise) culturally-relative standards is (fundamentally) grounded in the transcendent capacity for receptive attention to what is there. I defend this as a substantive, transcendent, potentially universal ground of the authority of (potential) trans-cultural values (ie including justice and truth).

Here, and in contrast to Gadamer, I make a universalist claim that only those practices or traditions in which internally-authoritative standards are fundamentally grounded in receptive attention, are transcendent standards (ie including truth or justice, depending on the nature of the practice) realised.

Because I make a distinction between both the nature and the scope of the authority of the two distinctive kinds of claims to truth at the two levels of the theory, I am able to defend the proposed account of autonomy as a 'true' (ie substantive) philosophical account, without thereby privileging the authority of philosophical standards.

Here, at the level of the first 'tier', corresponding to truth as disclosure of what is there (or knowledge of acquaintance), the claim to the substantive status of the account is a claim to have *actually engaged in* receptive attention and responsive judgment in the course of realising the transcendent value in question. (I return to the problem of explaining how this claim can be tested below.) At the level of the second tier, corresponding to truth as 'warranted assertability', the authority of the claim extends only so far, at least in the first instance, as the tradition or practice from which it derives its meaning extends.

I turn now to delineate fully the proposed account of practical reason/autonomy and associated account of 'vital spheres of practice'.

Practical Reason as Receptive Attention and Responsive Judgment

Practical reason/autonomy consists of first, the exercise of receptive attention, characterised as the capacity to drop existing preconceptions, if only momentarily, creating a space of new sensations, feelings or thoughts to come into conscious awareness. This substantive capacity corresponds to the Kantian notion of the 'unconditioned'. Attention entails a moment of radical suspension of one's existing prejudices, expectations etc.; here one's conditioning thoughts or images, which shape or form one's experience and perceptions of the world, must be momentarily dropped. Only if such a moment of unconditioned or unmediated experience is posited, can the loosening and possible revision of one's existing beliefs, standards, values etc. in response to the new and different be accounted for. And only if, as Kant saw, practical reason is grounded in the 'unconditioned', that which is free from the pushes and pulls of personal interest, can an account of autonomy and a pluralist account of moral order be constructed which identifies the moral agent as the fundamental source, or better, *locus* of authority.

The second component of practical reason which points to the conditions which must be fulfilled if judgments are to have 'warranted assertability', is the exercise of *responsive judgment*. This consists of first, the capacity to respond to, rather than to ignore this new facet of experience (or, to say the same thing differently, the facet of experience which has just come into more conscious awareness). That is, this entails an 'obedience' to what is there.[84]

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[84] That creative acts require obedience to what is there, the particularities of what is attended to is a theme in Weil's work on which Murdoch has also reflected: 'It is impossible not to feel the creation of a work of art as a struggle for freedom. Freedom is *not* choosing; that is merely the move that we make when all is already lost. Freedom is knowing and understanding and respecting things quite other than ourselves. Virtue is in this sense to be construed as knowledge, and connects us so with reality.' Murdoch, *Existentialists and Mystics*, p284. (Italics added) Also 'Good art, unlike bad art, unlike 'happenings', is something pre-eminently outside us and resistant to our consciousness. We surrender

Second, this requires that one proceeds in such a way that revises one's existing, culturally-determined preconceptions, standards, prejudices etc. in the light of this new experience.

Creative Action

Taken together the exercise of these two capacities constitutes 'creative action'. Creative action presupposes then that the actor possesses knowledge, including experiential 'tacit', 'innate' or 'practical' knowledge and/or technical facility sufficient to participate within a tradition, discipline, realm of human activity or more specifically, a 'vital sphere of practice'. It is the capacity to reinvigorate existing, inherited forms, techniques, understandings, structures etc. currently authoritative within that sphere of practice.

As was the case within Weil's notion of 'attention', Gadamer's account of hermeneutic judgment and Nussbaum's account of *phronesis*, this requires attention both to the particularities of the context at hand, as well as to one's pre-existing commitments, inherited cultural understandings etc.

The primary focus of one's attention when engaged in creative action, is likely to vary according to the kind of activity in which one is engaged – and this will vary depending on one's areas of training, cultural inheritance or personal pre-dispositions. For different people, creative action is likely to involve different degrees of attention and to different kinds of experience – either at the level of discursive thought, feeling or sensation. For example, a concert pianist on the concert platform is likely to attend most to nuance of the tone produced, the acoustic of the hall, the touch of the keyboard (principally sensory experience); the political theorist to nuance of an argument (principally intellectual, discursive experience); the mother of the

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ourselves to its authority with a love that is unpossessive and selfish'. Murdoch, *The Sovereignty of the Good*, p87.

newborn baby to signs from her baby indicating what she needs (principally experience at the level of feeling or sensation).

In addition to these primary, more focussed, specialised areas of attention and responsiveness, however, creative action may also require attention to less familiar areas of one's experience. More accurately, creative action requires willingness and capacity not to ignore or conceal (from oneself) that which comes into awareness through the moments of receptive attention – either at the level of thought, feeling or sensation.

Responsive attention may demand of the political theorist for example, that she does not ignore contemporary socio-political events, or developments within other fields of research which may have bearing on her own work. Further, she must stay attuned to her own personal predilections and prejudices which may be preventing her from giving due consideration to alternative lines of argument.

In the case of the mother caring for her newborn, this may require that she attend not only to the demands her baby, but also remain receptive at a more general level, for example, to advice from hospital staff, friends and family, as well as to her own bodily and emotional needs.

In this view, the action of a person who shuts down to aspects of his or her experience will fail to constitute creative action, because such experiences provide the raw material which *feeds* creative action, and breathes life into existing forms within the realm of human activity in which he or she is engaged.

As participation within a realm of human activity in which standards, understandings, practices etc. are handed down and revived through receptive attention and responsive judgment is integral to creative action, a theory of autonomy as creative action also requires a conception of such traditions of practice.

Creative Action within Vital Spheres of Practice

In *On Liberty* J.S. Mill appeals to a notions of 'vitality' and 'life', in his defence of the freedom of the individual. One of his arguments for fostering

'individuality' and originality', is that people with these qualities revive 'good things'; as he expresses it, originality is needed in order to keep 'human life' from becoming a 'stagnant pool':

> Not only is it they [ie people of originality] who introduce good things which did not before exist; it is they who *keep the life in* those which already exists ... There is only too great a tendency in the best beliefs and practices to degenerate into the mechanical; and unless there were a succession of persons whose ever-recurring originality prevents the grounds of those beliefs and practices from becoming merely tradition, such dead matter would not resist the smallest shock from anything really alive. [85]

The phrase to act 'true to the spirit rather than the letter of the law' points to a similar distinction between 'living' and 'dead' practice. Here the word 'spirit', with its intimate epistemological links with 'life' and 'vitality' (*spirare*, [*lat*] – to breathe) represents the kind of action that lends practical legitimacy and authority to existing law.[86] Gadamer picks up on this distinction in his discussion of the quality of judgment that mediates between general rules and concrete cases: individual 'productive' acts of judgment are needed to 'complete' the rules within morality and law alike. Both are 'constantly developed though the *fecundity* of the individual case'. Further, '[t]he judge does not only apply the law *in concreto*, but contributes through his very judgment to the development of the law'.[87]

The exercise of creative action as the key, defining feature of a vital sphere of practice, reflects the view that the distinction between vital and ossified sets of beliefs or practices, turns on the quality of judgment and actions exercised by participants within that sphere. Within the proposed theory the key

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[85] Mill, *On Liberty and Considerations on Representative Government*, p129. (Italics added)

[86] *Shorter Oxford Dictionary*: [1]. Spirit: a AF. *spirit* or ad. L *spiritus, breathing,* breath, air related to *spirare* to breathe. 'The animating or vital principle in man (and animals) which gives life to the physical organism in contrast to its purely material elements; the breath of life.'

[87] Gadamer, *Truth and Method*, p37.

difference between practices generally and *vital* spheres, is that central normative standards within the latter have been realised through creative action. Such experiences provide the raw material which breathes life into the existing forms within a practice.

Actions within a practice which are *not* realisations of creative action will either, merely (attempt to) replicate what has gone before, or alternatively, attempt to import new material into a sphere of practice, without exercising the receptive attention and responsive judgment needed to integrate it with the existing understandings, practices and standards which partly define that sphere. In both cases the ongoing flux of experience that is other, new or different has been ignored (silenced) in a more or less conscious attempt to fix the new experience in pre-determined ways – be it through habit, prejudice or perhaps an attempt to dictate and manipulate the course of events to one's perceived advantage.

Vital spheres of practice can be contrasted then, with first, spheres of practice which admit no new material, ossified around the status quo, and second, those practices which are subject to change, where these are changes which break with, as distinct from being integrated into (the existing forms – understandings, techniques, standards which constitute) that practice. For example, organisational strategies such as external quality audits and cost-saving strategies, measures derived from the marketplace, are often imported into the educational spheres of practice without the integration and adaptation which might enable them to contribute positively to the vitality of these practices.[88]

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[88] Organisational changes of this kind can be viewed in part as the result of participants engaging in a practice principally for instrumental reasons, pursuing ends extraneous to that which emerges through receptive, attentive participation in the practice itself.

'Vital Spheres of Practice' and MacIntyre's 'Practices'

The concept of vital spheres of practice is indebted to MacIntyre's account of a 'practice'. In *After Virtue* MacIntyre defines a practice as

> any coherent and complex form of socially established cooperative human activity through which *goods internal* to that form of activity are *realised* in the course of trying to achieve those *standards of excellence* which are appropriate to and partly definitive of that form of activity.[89]

Internal goods are *goods intrinsic* to engagement within a practice, such as, for example, the sense of camaraderie that comes with belonging to a soccer team committed to their sport. *External* goods include the prize-money or fame that may result from participation within a practice, but do not derive their social significance or meaning from the practice itself.[90]

In the proposed account a related distinction can be made. Here shared normative understandings which are the product of creative action, are viewed as internal standards which derive meaning from practices and understandings internal to that sphere. To seek to export normative understandings from one sphere into another, without subjecting them to the critical process of receptive attention and responsive judgment, is to corrode the vitality and integrity of the receiving sphere of practice. In this view then, all cultural forms which have not been subject to this process are external to that practice.

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[89] Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, Second ed. Duckworth, London, 1985, p187.

[90] See also Sara Ruddick's 'practicalist' perspective which holds that it is the goals that define a practice, that define 'rationality', and that there are 'distinctive ways of knowing and criteria of truth which arise out of practices'. Ruddick's view that all thinking is shaped by the practices in which people are engaged is particularly indebted to Wittgenstein, Winch and Habermas . Ruddick, *Maternal Thinking: Towards a Politics of Peace*, pp13-16.

MacIntyre argues that if we are to learn to exercise moral virtues we need to engage in practices in which we seek to realise internal goods. Without such practices our morality is emptied of its meaning. In a similar vein I am arguing that vital spheres of practice provide contexts highly conducive to the cultivation of capacity for creative action, the form of action which is constituted by the *generic* potentialities for receptive attention and responsive judgment needed to realise transcendent values within *any* realm of human activity. Building on MacIntyre's definition of a practice, a vital sphere of practice can be defined as

> any coherent and complex form of socially established cooperative human activity in which authoritative forms that partly constitute that practice (ie techniques, understandings, standards, rituals, knowledge etc) are predominantly constituted through the exercise of *creative action*.

A vital sphere of practice is thus one in which participants are (for the most part) continually engaging creatively – or engaged in creative action – and thus continually revitalising and renewing shared forms, understandings, rituals etc. which partly define that practice.

Trust-Dependent Relationships within Vital Spheres of Practice

The relationship between exemplars and those learning to master the techniques, understandings etc. within a vital sphere of practice, is central to this ideal. Integral to such a relationship are two kinds of *trust* – both 'well-founded' trust, and 'authentic' trust.[91]

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[91] 'Well-founded trust' is a term Dunn uses to describe the form of trust John Locke identified is integral to social existence: the presence or absence of relatively well-founded expectations about the conduct of others'. John Dunn, 'Trust and Political Agency', *Trust: Making and Breaking Cooperative Relations*, ed. Diego Gambetta, Basil Blackwell, New York, 1988, p81; Characteristics of *authentic* trust include self-confidence (in one's capacity to deal with the outcome, whatever it may be), self-conscious commitment, awareness of the risks and the vulnerabilities, keen assessment (but not calculation) of the person, relationship, situation, stakes and, most important, the *unknown* future that will be opened

Because creative action is understood to issue in the new and original – that which has not gone before – it always entails an element of *risk*. Consequently trust-dependent relationships are particularly conducive to the cultivation of capacities needed for the autonomous, responsible, skilful, kind of risk-taking I am identifying with creative action.

Trust-dependent relationships within vital spheres of *educational* practice provide particularly fertile soil for the cultivation of capacities needed for creative action:

First the student/apprentice/novice invests 'well-founded' trust in the judgment of her teacher/supervisor/instructor/mentor, to guide her through what she is likely to experience as a series of challenging, unfamiliar and hence risky tasks.[92] These might include experiments prone to failure, performing in recitals threatened by nerves, handling equipment and chemicals lethal to the untrained, taking the first steps on the high-wire, or caring for a newborn child for the first time.

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up by trust. Solomon and Flores, *Building Trust: In Business, Politics, Relationships, and Life*, pp95-103.

[92] The more (well-founded) trust the student can invest in the teacher's judgment, the greater the scope for the student to learn to take responsible risks, the greater the scope for learning; the greater the (at least perceived) risk, the more is at stake for the student, the greater the student's impetus to develop her own faculties of judgment needed to master the tasks her teacher assigns her. Clearly, however, this trust can be betrayed and used, not to provide a context in which the student may develop trust in her own critical capacities, but rather to perpetuate relationships of dependence. In such cases the initial trust invested can be understood to be not well founded, but rather a form of 'blind' trust, or what John Dunn calls 'trust as a passion'. See Dunn, 'Trust and Political Agency', p74. As Solomon and Flores argue, this blind form of trust is the paradigmatic form we have inherited (through Christian concepts of faith and paternalistic social structures) within Western cultures. Within this form of trust, when the trusting party 'is presented with the evidence for distrust', this is denied. See Solomon and Flores, *Building Trust: In Business, Politics, Relationships, and Life*, pp64-69.

In the course of learning to 'master' the prescribed tasks, the student gradually develops *authentic* trust. This is trust in one's *own* capacity to attend to what is there, and exercise as responsive form of autonomous judgment.[93]

The Two-tiered Epistemology

A maximally-capacious theory of autonomy requires an ontological and epistemic framework which employs the following two-tiered epistemology:

As noted above, the first tier explains how a truth claim (or claim to have realised any other transcendent value) can have warranted assertability (corresponding to the action-coordinating function of language). Such claims, in the light of historicist insights, will always be determined relative to culturally-constructed and conditioned (or practice-specific) standards and understandings. Consequently, at the level of this first tier, the scope of the authority of a claim to have realised truth, justice or any other transcendent value, will extend only so far as the community of participants within that sphere of practice (ie culture, discipline, sport, trade for example) extends.

The second tier identifies the fundamental source of the authority of a claim to have realised truth (or any other transcendent value). This tier corresponds to truth as disclosure or knowledge of acquaintance. This fundamental source of authority, which is also the point of transcendent, unconditioned, human commonality, is the first moment in the exercise of creative action: capacity to suspend one's existing cultural-forms and attend receptively to what is there. The exercise of receptive attention, followed by

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[93] Capacities for creative action needed to sustain the vitality of a sphere of practice, and to engage in trans-cultural justice as a process of receptive engagement, both involve risk and hence responsible forms of trust: trans-cultural justice requires that all parties take the risk that in the course of the process of responsive engagement, their own cultural understandings may be challenged and possibly revised; this risk-taking is analogous to the risks faced by the student embracing the new and different within her field.

responsive judgment (ie the critical process through which existing standards are revised, in response to the unconditioned moment of receptive attention) together constitute creative action. This is the generic capacity which must be assumed to be held in common, within a minimally-determinate, maximally-capacious account of the possibility of trans-cultural justice.

In this view then, the proposed account of trans-cultural justice, creative action and spheres of practice has *warranted assertability* only relative to standards of philosophical argument and normative political thought, and hence the authority of the account extends, in the first instance, only so far as these standards have authority.

In addition, however, the account can stand as a substantive account (ie indicating knowledge of acquaintance) to the extent that it is grounded in the exercise of receptive attention and responsive judgment: to that extent it can claim to disclose what is there or to point out what is in fact the case, albeit that the forms and understandings employed in this act of disclosure are acknowledged to be standards which are internal to the practice of political philosophy.

This constitutes a *pluralist* conception of truth (and other transcendent values), admitting a maximally-capacious, transcendent, unconditioned, ground, but also acknowledging the historicist insight that all claims to truth, beauty, justice etc. must also be culturally-conditioned.

Here the price of locating the source of philosophic truth within the Lifeworld is neither the 'intuitionist's' indeterminacy, the traditionalist's cultural-relativism, nor the communitarian or anti-foundationalist's culturally-relativist internalism. The price is that the scope of the authority of the account must be limited, in the first instance, to the sphere from which it derives its 'warranted-assertability'. That said, however, it remains that where participants more at home within one sphere (eg culture or discipline) come into contact with the less familiar originating from another, and engage with it through creative action, they can still be understood to be revising and reinvigorating authoritative beliefs, practices, standards within their own spheres of practice, and in a way that realises transcendent values.

The Equality of Vital Spheres of Practice

The theory affirms the *equality* of vital spheres of practice, right down to its epistemic and ontological foundations.

Here I have taken to heart Pascal's insight into the plurality of human forms of reason, captured so well within the *Pensee* that also informed Walzer's *Spheres of Justice.*

> There are different companies – the strong, the handsome, the intelligent, the devout –and each man reigns in his own, not elsewhere. But sometimes they meet, and the strong and the handsome fight for mastery - foolishly, for their mastery is of different kinds. They misunderstand one another, and make the mistake of each aiming at universal dominion. Nothing can win this, not even strength, for it is powerless in the kingdom of the wise …. The following statements, therefore, are false and tyrannical: "Because I am handsome, so I should command respect." "I am strong, therefore men should love me ..." Tyranny is the wish to obtain by one means what can only be had by another. We owe different duties to different qualities: love is the proper response to charm, fear to strength, and belief to learning. [94]

By locating the accounts of justice, truth and other transcendent values within an ontological framework which adheres to the equality of vital spheres of practice, that is, of realms of human activity whose authoritative standards are predominantly grounded in the exercise of creative action, the theory is able to make substantive claims concerning human autonomy, but

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[94] Blaise Pascal, *The Pensees*, trans. J.M. Cohen Hammondsworth, England, 1961, p96, quoted in Michael Walzer, *Spheres of Justice* Basic Books, New York, 1983, p18. In an alternative translation; 'In the various departments for men of strength, beauty, sense and piety, each man is master in his own house but nowhere else. Sometimes they meet and the strong and the handsome contend for mastery, but this is idiotic because their mastery is of different kinds. They do not understand each other and their mistake lies in wanting to rule everywhere. Nothing can do that, not even strength: it is of no effect in the learned world and only governs external actions – so these arguments are false'. Blaise Pascal, *Pascal Pensees*, trans. A.J. Krailsheimer Penguin Books, Harmondsworth, England, 1966, p45.

must limit the scope of the authority of these claims (in the first instance) to the sphere of political philosophy.

At this point, by employing a pluralist understanding of reason, I make a decisive break with Kant and acknowledge the diversity of standards, understandings and forms of reason to which people appeal when making deliberative judgments. I have argued above in the light of both the Dignity and Difference streams within political thought, that the key to addressing contemporary radical plurality within a theory of trans-cultural justice is to employ a maximally-capacious, minimally-determinate epistemological framework. Such an account will seek to as far as possible affirm the equality of forms of rationality and vital spheres of practice.[95] This has involved questioning the traditional privilege accorded to discursive forms of reason within philosophical discourse, as well as the public, political realms of democratic societies.

Minimally-determinate commonality requires that neither discursive standards of reason, the philosopher's truth, nor the political theorist's principles of justice are accorded privileged status. Consequently creative action as the minimally-determinate commonality on which the proposed account of trans-cultural justice rests, must be conceived as a *generic*

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[95] Striking contrasts between forms of reason within different practices is vividly captured in an example Peter Winch uses to illustrate the 'practicalist' view that a diversity of distinct standards of rationality and truth can be viewed as co-existing rather than as competing with each other: When Job is taken to task for having gone astray by having lost sight of the reality of God, this does not, of course, mean that Job has made any sort of theoretical mistake, which should be put right, perhaps, by means of an experiment. God's reality is certainly independent of what any man may care to think, but what that reality amounts to can only be seen from the religious tradition in which the concept of God is used, and this use is very unlike the use of scientific concepts. Winch's point is that it is within the religious use of language that the conception of God's reality has its place. This does not mean, however, that the 'God's reality' is at the mercy of what any man cares to say; if this were so, God would have no reality. Ruddick, *Maternal Thinking: Towards a Politics of Peace*, p16; Peter Winch, *Ethics and Action* Routledge and Kegan Paul, London, 1972, p12.

potentiality needed to realise not only justice and truth, but *any* transcendent value within any of the diversity of vital spheres of practice.

Creative Action and the Realisation of Trans-Cultural Justice

In this view, then, and in contrast to the approach taken by neo-Kantian theorists who employ social-contract strategies of justification, it is not shared standards of justice or reason which must be held in common across cultures if trans-cultural justice is to be realised. Rather, it is the (minimally-determinate, maximally-capacious) potentialities needed to overcome prejudices and revise one's existing preconceptions, including culturally-relative authoritative standards, through receptive attention and responsive judgment.

In trans-cultural cases, a claim to have realised the trans-cultural value justice indicates first, that authoritative standards (of justice or otherwise) internal to each culture/sphere of practice have been revised through receptive attention and responsive judgment. The possibility of acknowledgment, by all parties to a case, that not merely culturally-relative, but rather trans-cultural justice has been realised, is grounded in capacity to exercise, and hence recognise in exemplars from other socio-cultural spheres of practice, the exercise of the generic capacity for creative action. Here the trans-cultural commonality assumed is not the pre-existence of shared or universally-authoritative standards or principles of justice, but rather, that parties to the dispute can exercise and recognise in exemplars from other vital spheres of practice (ie cultural traditions), the minimally-determinate, maximally-capacious capacities (for creative action) which must be held in common, if trans-cultural justice which relies neither on force or coercion is to be realised.

While parties to a dispute from one culture or practice may never fully understand or appreciate the tradition/practice-dependent standards of justice (or indeed, any other kind of standard) held authoritative by parties from another culture or practice, they will nevertheless be able to judge whether or not the parties with whom they are negotiating are engaging with the integrity – the openness and the responsiveness – that creative action demands.

This account of the generic commonality on which trans-cultural justice rests builds on Arendt's suggestion that communicability of judgments must presuppose shared examples or exemplars. Arendt argues that what makes particulars communicable within Kant's account of both cognitive and aesthetic judgment is first that (a) in perceiving a particular we have in the back of our minds a 'schema' or example whose 'shape' is characteristic of many such particulars and (b) that this schematic shape is in the back of the minds of many different people.[96]

If it is plausible to assume that these schema or exemplars are in fact held in common, Arendt's suggestion does not pose any difficulties. However, when engaging with people from different cultures, or with people who are active in different kinds of spheres of practice, and consequently draw on different kinds of experiences and people for their examples/exemplars, no such commonality can simply be assumed. In addition, while there may be appearance of common schema, exemplars and examples, across cultures, in the light of historicist insights as well as phenomenological insights into the a priori facticity of the lifeworld, it would be too much to assume that these apparently shared examples are actually held in common.

For example, in an Aboriginal land claim case, in which an Anglo-Australian judge and the lease-holder's lawyers are taking evidence from Indigenous people at a hearing, shared schema for the concept of 'land-ownership' can not be assumed.[97] To illustrate: in a case between the Crown and traditional

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[96] Arendt argues that one judges whether an act is courageous spontaneously, without any derivations from general rules, but one has 'in the depths of one's mind' an exemplar such as Achilles (if one were Greek). Hannah Arendt, *Between Past and Future : Eight Exercises in Political Thought*, Enlarged ed. Penguin Books, New York, 1978, p84. The example is identified here as 'the particular that contains in itself, or is supposed to contain, a concept or general rule'.

[97] For documentation of the kind of miscommunication that takes place in Aboriginal Land Claims trials see for example Harold Koch, 'Non-Standard English in an Aboriginal Land

owners from the Kaytej, Warlpiri and Warlmanpa linguistic groups of an area of land south-west of Tennant Creek in Northern Territory, Australia, for the most part the case was conducted and evidence was taken from Aboriginal witnesses in English. When communication failed, or the witness showed a strong preference for Warlpiri, an interpreter, who spoke Warlpiri (which nearly all of the witnesses could speak) was available to assist. Mis-communication nevertheless occurred, not only because of Aboriginal use of non-Standard English and Aboriginal Pidgin, but also because key terms could not be readily translated. To begin with, British legal concepts of land ownership did not match the Warlpiri terms *kirta* (which expressed one's relation to one's father's country) and *kurtungurlu* (which expressed one's relation to one's mother's country).[98]

Nevertheless, Arendt correctly argues that *some* commonality must be assumed if the communicability of judgments is to be explained.[99] However, here we must appeal to the notion, which can only be captured if the world-disclosing function of language is embraced and accorded priority, that what is held in common is simply what is in fact being talked about, rather than any shared, determinate conception or understanding, or form attributed to it. Capacity for creative action: the capacity to attend receptively to what is there and respond accordingly - capacity to both exercise it, and to recognise it in exemplars from other vital spheres of practice – can be defended as the minimally-determinate commonality which must be assumed in order to construct an historicist, pluralist account of trans-cultural justice and other transcendent values as it rests, fundamentally, not on any determinate shared conception of what is there, but rather, the assumption that for

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Claim', *Cross-Cultural Encounters: Communication and Mis-Communication*, ed. J.B. Pride, River Seine Publications, Melbourne, 1985.

[98] Ibid., pp177-178.

[99] She writes: 'All single agreements or disagreements presuppose that we are talking about the same thing – that we, who are many, agree, come together, on something that is one and the same for all of us'. Arendt, *Between Past and Future : Eight Exercises in Political Thought*, p84

communication to be possible, all parties must exercise receptive attention to whatever is there to be disclosed. This account does not presuppose that shared schema and exemplars exist, but rather, explains how bridges can be built between the different meanings brought by different parties, in their attempts at trans-cultural communication, understanding and justice.

Conclusion

I have now presented both practical reason/autonomy as creative action and the ontological and epistemic framework which enables the account to stand as substantive and philosophically-vindicated while at the same time fully addressing historicist insights, pluralist commitments and responsibility to otherness. It remains to address the differences between this historicist, pluralist, tradition-dependent theory of autonomy, and Kant's formal account of autonomy and accompanying transcendental philosophical framework.

Chapter 7: Rethinking Kantian Autonomy as Creative Action

Unity is not a thing in itself but an act which can not be divided.[1]

I have so far defended the proposed theory of autonomy on the grounds that it first, affirms individual responsibility for shaping our shared world, second, responds most adequately to both the Dignity and Difference streams of contemporary normative political thought, contemporary historicist insights and pluralist commitments, and third, employs an ontological and epistemic framework which coheres best with the promotion of the ideal of autonomy as creative action defended within it.

Following Arendt and other theorists who have sought to affirm autonomous judgment and human responsibility, I have looked to Kant, both for grounds with which to justify the account of autonomy/practical reason, as well as for a formal structure on which to build it. I have argued in the light of O'Neill's constructivist reading of Kant, that relevant and persuasive grounds for justification can be found in Kant's vindication of reason which grounds reason's authority in the problem of accounting for moral order, given plurality. A Kantian structure with which to sustain Kant's commitment to affirming the freedom of the judging subject will employ a two-part structure grounded fundamentally in the unconditioned.

In the light of contemporary historicism, pluralism and the critique of identity/difference, however, I have argued that a minimally-determinate, maximally-capacious account of autonomy must be constructed. As a

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[1] Simone Weil and Arthur Wills, *The Notebooks of Simone Weil* Routledge & Kegan Paul, London, 1956, pp157-158.

consequence of this, two quite radical revisions to Kant, in addition to those already discussed, are required.[2]

First, Kant's transcendental idealism, which identifies moral autonomy and its unconditioned ground with pure reason, and divorces these from the phenomenal realm of human experience, must be replaced with an ontological and epistemic framework which locates the unconditioned within the realm of human experience. This is because in the proposed account, autonomy as creative action is identified as a substantive form of action, which takes place *within* the realm of human experience.

Second, any hierarchical distinctions Kant makes between the epistemic or moral value of each form of transcendent value must be collapsed. This is because the proposed account defends the equality of vital spheres of practice, through which transcendent values, grounded in creative action, are realised, and views creative action as a generic potentiality needed to realise any transcendent value.

In the following I defend the formulation of autonomy as a substantive form of action, rather than a merely formal, Kantian, transcendental ideal, in the light of Hannah Arendt's early conception of freedom as a form of political 'action', her reflections on the problem of freedom (ie autonomy), and on the philosophical barriers to theorising autonomy as a form of action. Arendt's

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[2] The proposed revisions effectively seeks to integrate insights from both the Aristotelian as well as Kantian streams of philosophy, which, Benhabib observes, are divided by fundamental metaphysical differences. She suggests that any attempt to simply integrate these two modes of thought 'into a frictionless unity' would be equivalent to wanting to 'square the circle'. Benhabib, 'Judgment and the Moral Foundations of Politics in Hannah Arendt's Thought', p134. Ronald Beiner argues, however, that Kant's formal theory of judgment which emphasises disinterestedness and the autonomy of the judging subject must be supplemented by an Aristotelian account of the *substantive* capacities and virtues – for example experience, maturity, as well as *knowledge* needed to account for the distinction between well-informed, well-qualified judgment and the rest. Beiner, 'Hannah Arendt on Judging', pp134-138. Beiner addresses this question in Beiner, *Political Judgment*

enduring commitment to defending human autonomy, her sustained respect for and creative reflection on Kant's work, as well as her deep appreciation for the difficulties the question of freedom poses within a Kantian framework, make her work of particular relevance in this context.[3]

In partial defense of collapsing Kantian distinctions between different forms of judgment (ie cognitive, moral and aesthetic), required by the identification of creative action/autonomy as a generic potentiality needed to realise any transcendent value, I draw on Iris Murdoch's reflections on the possibility of opening up Kant's (rather sketchy) concept of the faculty of Imagination within his accounts of aesthetic and cognitive judgment, to embrace moral judgment.

The Problem of Freedom as a Form of Action

Arendt's 'Action' as Form of Freedom

Arendt's early concept of action, the capacity to bring into being that which has not gone before, can be quickly grasped when it is considered in the light of her experience of totalitarianism within Nazi Germany and France, in which the majority of people failed to exercise their own critical faculties of judgment and actively respond to their experience. Arendt contrasts the spontaneity and newness of Action with the automism not only of nature's cycles, but also the seemingly unstoppable processes unleashed by human beings within history, particularly the mass political movements of the

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[3] Arendt looks to Kant's reflective judgment for an account of a form of contemplation that is not restricted to the beholding of necessities and is also not divorced from the worldly phenomena of human action. Beiner observes 'Reflective judgment thus provides some measure of respite from the antinomy of freedom and nature that characterizes the first two *Critiques*'. Beiner, 'Hannah Arendt on Judging', p119. Arendt's reflections on judgment took the form of a commentary on Kant. Arendt writes that was in part due to 'the curious scarcity of sources' on the topic: ' Not till Kant's Critique of Judgment did this faculty become a major topic of a major thinker'. *Postscriptum* to *Thinking* reprinted in Arendt, *Lectures on Kant's Political Philosophy*, p4.

twentieth century and the industrial and technological developments set off
by scientific innovations. Arendt argues that it is because human beings
have received the twofold gift of freedom and action, that we can establish a
reality of our own that is not determined by the automatic organic and
human-made processes.[4]

Arendt's conception of Action is indebted to Augustine, who conceives of
freedom as a characteristic of human existence in the world.[5] For Augustine
man does not possess freedom so much as his coming into the world
signifies the appearance of freedom in the universe. With the birth of each
man this initial beginning is reaffirmed:

> Because he *is* a beginning, man can begin; to be human and to be free are
> one and the same. God created man in order to introduce into the world
> the faculty of beginning: freedom[6]

Arendt's notion of action is also indebted to statements concerning 'miracles'
attributed to Jesus of Nazareth. Arendt suggests that contrary to the
philosophical tradition which developed alongside Christianity, Jesus
understood that the power inherent in freedom is not will but faith, and the
work of faith, its product, is miracles. Within those passages in the Bible in
which miracles are clearly not supernatural events but 'only what all
miracles, those performed by men no less than those performed by a divine

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[4] See Arendt, *The Human Condition*, pp230-232,175-181; Arendt, 'What Is Freedom?' pp168-
169.

[5] Arendt's notion of freedom as an 'accessory to doing and acting' is also informed by her
etymological investigations into the Greek and Latin words for action. She notes that in
both languages there are two verbs which designate 'what we uniformly call "to act"'. In
the Greek these are ...to begin, to lead, and finally, to rule; and ... 'to carry something
through'. The corresponding Latin verbs are *agere*, to set something in motion, and *gerere*,
which translates to something like 'the enduring and supporting continuation of past acts
whose results are the *res gestae*, the deeds and events we call historical'. Arendt, 'What Is
Freedom?' pp165-166; Arendt, *The Human Condition*, p177.

[6] Arendt, 'What Is Freedom?' p167.

agent always must be', they appear always as interruptions of some natural series of events, of some automatic processes, in whose context they constitute the wholly unexpected. Here, a miracle, like free human action, is a new beginning; it is that which could not be expected. [7]

Arendt also associates free action with an understanding of the actualisation of principles such as honour, glory or love of equality attributed to Montesquieu. She suggests here that the manifestation of such principles comes about only through action: 'they are manifest in the world as long as the action lasts, but no longer'.[8]

> Freedom or its opposite appears in the world whenever such principles are actualised; the appearance of freedom, like the manifestation of principles, coincides with the performing act. Men *are* free – as distinguished from their possessing the gift of freedom –as long as they act, neither before nor after; for to *be* free and to act are the same.[9]

As is the case for Action, according to Montesquieu's conception of principles, the source of this action is also difficult to identify; Montesquieu's principles do not operate or 'arise' from within the self as motives do, but inspire from without.

> [A]ction in so far as it is free is neither under the guidance of the intellect nor under the dictate of the will –although it needs both for the execution of a particular goal – rather it springs from something altogether different.[10].

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[7] Ibid., p168. 'It is in the very nature of every new beginning that it breaks into the world as an "infinite probability", and yet it is precisely this infinitely improbable which actually constitutes the very texture of everything we call real'. (p169) … 'It is because of this element of the "miraculous" present in all reality that events, no matter how well anticipated in fear or hope, strike us with a shock of surprise once they have come to pass. The very impact of an event is never wholly explicable; its factuality transcends in principle all anticipation' (p170).

[8] Ibid., p152.

[9] Ibid., pp152-153.

[10] Ibid., p152.

Arendt also links freedom as action with Machiavelli's notion of *virtu*, 'the excellence with which man answers the opportunities the world opens up before him in the guise of *fortuna*'. The meaning of virtue she renders as 'virtuosity', identifying this with the performing arts as distinct from than the arts of making, as she holds that in the former the accomplishment lies in the performance itself, and not in the end product.[11]

Arendt and the Problem of Freedom as a Form of Action

Central to the problem of theorising this view of action as a form of freedom, is its characteristic spontaneity, newness, and uniqueness. This is partly because the western philosophical tradition has a long history of identifying the realm of action, as the realm of necessity and causal relations. Arendt herself was well aware of the obstacles to theorising freedom as action, observing that freedom is one of the most problematic concepts within western thought. She begins an essay entitled 'What is Freedom' with her own rendering of the Kantian antinomy of freedom:

> To raise the question, what is freedom? seems to be a hopeless enterprise ...
> In its simplest form, the difficulty may be summed up as the contradiction
> between our consciousness and conscience, telling us that we are free and
> hence responsible, and our everyday experience in the outer world, in
> which we orient ourselves according to the principle of causality. In all
> practical and especially in political matters we hold human freedom to be a
> self-evident truth, and it is upon this axiomatic assumption that laws are
> laid down in human communities, that decisions are taken, that judgments
> are passed. In all fields of scientific and theoretical endeavour, on the
> contrary, we proceed according to the no less self-evident truth of *nihil ex
> nihilo*, of *nihil sine causa*, that is, on the assumption that even "our own lives
> are , in the last analysis, subject to causation" and that if there should be an
> ultimately free ego ourselves, it certainly never makes its unequivocal

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[11] Ibid., pp152-153.

appearance in the phenomenal world, and therefore can never become the subject of theoretical ascertainment.[12]

For Arendt 'the greatest clarification in these obscure matters we owe to Kant.' In particular we are indebted 'to his insight that freedom is no more ascertainable to the inner sense and within the field of inner experience than it is to the senses with which we know and understand the world.'

> Whether or not causality is operative in the household of nature and the universe, it certainly is a category of the mind to bring order into all sensory data, whatever their nature may be, and thus it makes experience possible. Hence the antinomy between practical freedom and theoretical non-freedom, both equally axiomatic in their respective fields, does not merely concern a dichotomy between science and ethics, but lies in everyday life experiences from which both ethics and science take their respective points of departure.[13]

Arendt's view of the problem of freedom is clearly strongly informed by the Kantian dichotomy between the realm of human experience viewed as thoroughly conditioned by causal relations, and the transcendent realm of the free, noumenal subject. Consequently for Arendt, theorising her notion of action, which rests on the spontaneous, that which can not be grasped, and hence in a sense represents the 'unconditioned' within the 'conditioned' world of human experience, would indeed seem to present as a 'hopeless task'. Her own construal of Action, in direct opposition to the 'necessary' or automatic processes of totalitarianism, technocracy and the natural world, reinforces this difficulty.

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[12] Ibid., p143.

[13] Ibid., p144. Benhabib observes that 'we might say with Hegel that "purity of heart" becomes a chimera in Kant's moral philosophy. As soon as it is embodied in action and becomes a part of the world, it becomes impure; yet to embody the good will in action is the only mark of freedom and moral dignity. Thus we seem to be free only when we act, yet become unfree as soon as we act'. Benhabib, 'Judgment and the Moral Foundations of Politics in Hannah Arendt's Thought', pp131-132.

Arendt's own insights into the obstacles within western philosophy to conceptualising freedom as a form of action, help explain why Arendt never did fully develop her early view of freedom as a form of Action.

Philosophical Distain of the Realm of Action

Arendt traces the identification of the concept of freedom within western philosophy with the free will back to Greek and Roman antiquity in which freedom was 'an exclusively political concept'. She suggests that the philosophical tradition beginning with Parmenides and Plato founded itself in *explicit opposition* to the politic and citizenship, and as a consequence of this, freedom as the Greeks understood it could not come into philosophy.[14]

The tendency to identify freedom with the free *will* can also be traced to the early Christian experience, in which freedom was not available within the public realm. Early Christians, especially Paul, discovered a kind of freedom which had no relation to politics:

> Free will and freedom became synonymous notions ... and the presence of freedom was experienced in complete solitude.[15]

Arendt argues that the notion of *inner* freedom was thus 'originally the result of an estrangement from the world in which worldly experiences were transformed into experiences within one's own self – the result of a retreat from the world where freedom is denied'. In this sense then 'inner freedom can be viewed as 'derivative: discovered by those who had no place of their own in the world and hence lacked a worldly condition which, from early

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[14] Arendt, 'What Is Freedom?' p157.
[15] Ibid., p158.

antiquity to almost the middle of the nineteenth century, was unanimously held to be a prerequisite for freedom'. [16]

During the twentieth century disassociation between freedom and the political was further entrenched. Arendt suggests that this was first, because those who had experienced or witnessed twentieth century totalitarianism, in which no private space existed, were inclined to believe freedom is where politics ends:

> Because the source of freedom remains present even when political life has become petrified and political action is impotent to interrupt automatic processes, freedom can so easily be mistaken for an essentially non-political phenomenon; … freedom is not experienced as a mode of being with its own kind of 'virtue' and virtuosity, but as a supreme gift which only man, of all earthly creatures, seems to have received, of which we can find traces and signs in almost all his activities, but which develops fully only when …it can come out of hiding … [17]

Here politics is compatible with freedom only because and insofar as it guarantees a possible freedom from politics: as is the case within many 'epochs of petrifaction', the 'faculty of freedom itself, the sheer capacity to begin, which animates and inspires all human activities and is the hidden source of production of all great and beautiful things' remained, but so long

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[16] Ibid., pp157-158. She argues that Epictetus's formulation of freedom as the capacity to limit oneself to that which is in one's own power (a freedom from one's own desires'), can be read as 'a conscious attempt to arrive at a formulation through which one may be a slave in this world and still be free'. For Epictetus 'a man is free if he limits himself to what is in his power, if he does not reach into a realm where he can be hindered. The science of living consists in knowing how to distinguish between the alien world over which man has no power and the self of which he may dispose as he sees fit (p147)'.

[17] Ibid., p169. Her reflections here cohere with Havel's observation that 'living within the truth' within a 'post-totalitarian' regime tends to take forms not traditionally identified with the political, and yet have radical political implications. See Havel, 'The Power of the Powerless', .

as it remained hidden, freedom could not be worldly, which for Arendt implies the political.[18]

Second, emphasis placed within (liberal) political thought on social order and security, has contributed to the association of freedom with the *private* sphere, and its disassociation from the political; Arendt argues that within the seventeenth and eighteenth century the highest purpose of politics was to guarantee security, that which makes freedom possible, where freedom is identified with non-political activity. Since the modern age, politics and government have been concerned with protecting not so much freedom, but what Arendt calls the 'life process' (ie the interests of society, its individuals and their security) so that this can develop undisturbed. Consequently we have come to identify freedom with the space community provides for teaching, religion, cultural, intellectual, and economic activities; in short, any *non*-political activities. We have come to think of freedom as freedom *from* politics.[19]

Arendt acknowledges that '[w]ithout a politically guaranteed public realm, freedom lacks the worldly space to make its appearance'. However, she argues that identification of freedom as that which takes place *away* from the political arena constitutes an impoverished view of freedom, and this is costly from the point of view of sustaining a healthy public world. Further, this constitutes an *impotent* conception of freedom, an impotence partly exacerbated by western philosophy's opposition between necessity and freedom-of-the-will: freedom as will is confronted with 'necessity' – that 'which prevents me from doing what I know and will, may arise from the world, or my own body' (ie, lack of talent, psychological factors etc.) all of which 'condition the person from the outside as far as the I-will and I-know, that is, the ego itself, are concerned.'[20]

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[18] Arendt, 'What Is Freedom?' p155.

[19] Ibid., pp148-149.

[20] Ibid., p160.

Arendt argues that the power that meets these circumstances, that liberates as it were, willing and knowing from their bondage to necessity is the coincidence of the 'I-will' and the 'I-can'.

> Only where the I-will and I-can coincide does freedom come to pass. [21]

As is the case with the proposed account of creative action, Arendt's earlier reflections on the notion of freedom clearly affirm a view of freedom as a form of action within the world that arises out of an indeterminate or spontaneous source. Arendt also acknowledges, with Kant, that the source of freedom can not be viewed as a conditioned object of cognition. She writes that

> [Freedom is the capacity] to call something into being which did not exist before, which was not given, not even as an object of cognition or imagination, and which therefore, strictly speaking, could not be known. Action, to be free, must be free from motive on one side, from its intended goal as a predicable effect on the other. This is not to say that motives aims are not important factors in every single act, but they are its determining factors, and action is free to the extent that it is able to transcend them.[22]

She also recognises that setting up an opposition between freedom on the one hand, and the constraints of the world of necessity on the other, leads to an impoverished notion of freedom.

However, by both identifying freedom as grounded in spontaneity, that which is 'unconditioned' and *also* locating it *within* the 'conditioned' realm of action, Arendt comes up against the distinction Kant made between, on the one hand, freedom and the unconditioned, and on the other, necessity and

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[21] Ibid. .
[22] Ibid., p151.

the conditioned – an opposition, I have argued above, Kant employed to protect the autonomy of the judging subject.[23]

In spite of her insights into the obstacles within western philosophy to thinking of freedom as a form of political action and her early commitments to such a view of freedom, at the end of her life, when she was embarking on the third part of her trilogy *The Life of the Mind: Thinking, Willing and Judging,* it is most likely that Arendt was about to characterise the faculty of judgment as a reflective, retrospective faculty of the judging spectator, rather than as a capacity for action.[24]

Why did Arendt not pursue further her earlier view of freedom as a form of action? Two reasons seem plausible:

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[23] Glen Grey writes: 'For those who knew her mind with some intimacy it was evident that she regarded judging to be her particular strength and in a real sense a hoped-for resolution to the impasse to which the reflections on willing seemed to lead her. As *Kant's Critique of Judgment* enabled him to break through some of the antinomies of the earlier critiques, so she hoped to resolve the perplexities of thinking and willing by pondering the nature of our capacity for judging.' J. Glenn Gray, 'The Abyss of Freedom - and Hannah Arendt', *Hannah Arendt: The Recovery of the Public World*, ed. Melvyn A. Hill, St. Martin's Press, New York, 1979, p225 quoted in Beiner, 'Hannah Arendt on Judging', p117.

[24] Beiner argues that Arendt's *late* views on judgment were informed by her interpretation of Kant's understanding of *political* judgment as a form of reflective judgment of the judging spectator: judging, like thinking, entails a withdrawal from action. Only by withdrawing from the drama of political action, in which each plays their *part*, and hence can only take a *partial* view, can the meaning of the whole be obtained. Beiner, 'Hannah Arendt on Judging', pp124-125. In *Thinking* Arendt writes that judgment 'be it aesthetic or legal or moral, presupposes a definitely 'unnatural' and deliberate withdrawal from involvement and the partiality of immediate interests as they are given by my position in the world and the part I play in it'. Hannah Arendt, *The Life of the Mind, Vol 1: Thinking*, ed. Mary McCarthy, Harcourt Brace Jovanovich, New York, 1978, p76, quoted in Beiner, 'Hannah Arendt on Judging', p109. (note 74) Beiner argues that at the conclusion of *Willing*, Arendt is facing the 'impasse' of freedom – which she hoped to resolve in the final work *Judging*: How can something as radically contingent and ephemeral as the faculty of willing provide a sustainable basis for human freedom? How can men affirm their worldly condition if freedom has its source in something as private and individualizing as the human will? (p117).

First, in her later work Arendt adhered to Kant's strategy of preserving the dignity of the judging subject by identifying it with capacity for reflective thought, which takes place at a distance from the object or context in question and hence, at a distance from action.[25] That is, she focussed on impartial, critical judgment as the prerogative of the judging *spectator* rather than the *actor*. Her adherence to this opposition is reflected in her insistence that political judgments, the judgments of political actors, issue in *opinions* rather than truth, for if these were identified as a form of *knowledge*, this would, following Kant's *Critique of Pure Reason*, suggest that they must cohere with or be derived from existing concepts and understandings, conflicting with the unconditioned freedom and disinterestedness on which the possibility of full autonomy and (disinterested) aesthetic judgment rests.[26]

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[25] In her lectures on Kant, Arendt argues that '[t]he most decisive difference between the *Critique of Practical Reason* and the *Critique of Judgment* is that the moral laws of the former are valid for all intelligible beings, whereas the rules of the latter are strictly limited in their validity to human beings on earth'. Arendt, *Lectures on Kant's Political Philosophy*, p13. As Ronald Beiner notes, Jurgen Habermas has argued that by holding fast to the classical distinction between theory and practice, which holds that practice rests on opinions and convictions that can not be true and false in the strict sense (which Habermas regards as "[a]n antiquated concept of theoretical knowledge that is based on ultimate insights and certainties'") Arendt is kept from "comprehending the process of reaching agreement about practical questions as rational discourse". Jurgen Habermas, 'Hannah Arendt's Communications Concept of Power', *Social Research*, 44, 1977, pp22-23 quoted in Beiner, 'Hannah Arendt on Judging', p137 Benhabib argues that major tensions arise within Arendt's thought due to her commitment to an Aristotelian view of political action, as well as her Kantian concern to ground political action in universal moral principles. See Benhabib, 'Judgment and the Moral Foundations of Politics in Hannah Arendt's Thought', p123.

[26] In the concluding section of the Kant Lectures Arendt writes that judgment appeals to capacity for *sensus communis* in everyone, and 'never has the validity of cognitive or scientific propositions, which are not judgments, properly speaking. (If one says, 'The sky is blue", or "Two and two are four," one is not "judging"; one is saying what is, *compelled* by the evidence either of one's senses or one's mind.)' Arendt, *Lectures on Kant's Political Philosophy*, p72.

Second, Arendt's early view of free, political action was strongly informed by the ancient Greek view of freedom which set up an opposition between the freedom of the *polis*, the political realm of 'words and deeds', and the realms of necessity, of the household and commerce.[27]

Her reasons for doing so aside, in the end Arendt adhered to the Kantian opposition between the conditioned realm of 'necessity', and the unconditioned realm of freedom, and never fully worked out her earlier commitment to freedom as a form of Action within the world.[28]

Perhaps surprisingly given the direction her own work took, I nevertheless find within Arendt's reflections on the problem of freedom, a passage which suggests the proposed solution to the problem of freedom, which re-locates the unconditioned to *within* the world. Arendt suggests that it is 'thought itself' which negates (unconditioned) freedom:

> It is not scientific theory but thought itself, in its pre-scientific and pre-philosophical understanding, that seems to dissolve freedom on which our

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[27] She writes: 'Obviously not every form of human intercourse and not every kind of community is characterised by freedom. Where men live together but do not form a body politic – as, for example, in tribal societies or in the privacy of the household – the factors ruling their actions and conduct are not freedom but the necessities of life and concern for its preservation'. Arendt, 'What Is Freedom?' p148.

[28] Beiner argues that her fundamental concern within *The Life of the Mind* was to preserve the autonomy of all three faculties of the Mind – thinking, willing and judging from the Hegelian notion of mankind's progress: to avoid subordinating the particular (event) to the universal course of history by affirming the dignity that comes of judging the particular in itself; the ultimate alternative in deciding on a theory of judgment is between Kant and Hegel; between autonomy and history' Beiner, 'Hannah Arendt on Judging', pp130, 131. Beiner also argues that in the end Arendt resolved the tension between her view of judgment as part of the *vita active* – (which emphasises representative thinking, the exchange of opinions in public) and as part of the vita contemplate (which emphasises the contemplative, disinterested and retrospective aspects of judgment) by *abolishing* it – by placing judgment exclusively within the life of the mind, and thereby 'negating some of her broader insights into judgment' (p139).

> practical conduct is based into nothingness. For the moment we reflect upon an act which was undertaken under the assumption of our being a free agent, it seems to come under the sway of two kinds of causality, of the causality of inner motivation on the one hand and of the causal principle which rules the outer world on the other. Kant saved freedom from this twofold assault upon it by distinguishing between a "pure" or theoretical reason and a "practical reason" whose centre is free will, thereby it is important to keep in mind that the free-willing agent, who is practically all-important, never appears in the phenomenal world, neither in the outer world of our five senses not in the field of the inner sense with which I sense myself. This solution, pitting the dictate of the will against the understanding of reason, is ingenious enough and may even suffice to establish a moral law whose logical consistency is in no way inferior to natural laws. But it does little to eliminate the greatest and most dangerous difficulty, namely, that thought itself, in its theoretical as well as its pre-theoretical form, makes freedom disappear … [29]

This passage suggests something like an inversion of Kant's association of on the one hand, freedom with unconditioned reason and thought, and on the other, necessity with the realm of conditioned action and experience. That is, perhaps it is 'thought itself' (ie which includes images and forms) which conditions experience, bringing form to otherwise unconditioned, or yet to be conditioned, experience. Following on from this, perhaps it is this conditioning thought which must be suspended, opening up a moment of *un*conditioned experience, a space or a gap into which new feelings, thoughts and sensations can come into conscious awareness, so that the agent can be freed from the grip of previous 'conditioning' and stand as a source of action, as not always subject to what has gone before.

Relocating Kantian Judgment to the Conditioned Realm of Action

We have seen that Kant ensures the unconditioned freedom of the moral subject by divorcing this subject from the phenomenal world. To keep freedom from being submerged by the faculty of theoretical reason (which is

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[29] Arendt, 'What Is Freedom?' pp144-145.

concerned with objects of the phenomenal world and relations of causal necessity), Kant houses freedom in the noumenal will of the practical subject. In addition, Kant presents freedom as a purely formal pre-requisite for the possibility of moral order and can provide only a transcendent rather than substantive account of freedom.

I have argued, however, that a substantive Kantian account of autonomy/practical reason can be modelled on the structure Kant employs within his account of autonomy and non-cognitive forms of judgment. This reformulation relocates the unconditioned to within the realm of action, and consequently requires a radical break with Kant's transcendental metaphysics. The unconditioned must be relocated to within the realm of experience, by affirming that human beings have capacity for an unconditioned, or formless kind of transcendent experience (ie where experience is understood in a non-Kantian, more general sense). With Kant, however, it remains, that being an unconditioned experience, it is one of which we can have no knowledge, at least to the extent that knowledge is identified as something that has formal or determinate content.

Rethinking the Kantian Imagination as a Generic Faculty of Judgment

Such an account requires major revision to Kant's epistemic framework which makes a clear-cut distinction between cognitive and non-cognitive forms of judgment.

We have seen that within Kant, the possibility of cognitive judgments concerning the empirical realm of human experience, presupposes the categories of understanding. For this reason Kant must view human experience as always conditioned by these categories of understanding. Revision of Kantian experience to embrace the unknown and hence *un*conditioned, consequently has major implications for the clear-cut distinction Kant makes between cognitive and non-cognitive forms of judgment.

Iris Murdoch questions Kant's demarcations between the different forms of judgment within her late philosophic work *Metaphysics as a Guide to Morals*. Here Murdoch reflects on Kant's concept of the faculty of Imagination, and asks whether Kant's distinction between the function of the Imagination

within cognitive, empirical judgment on the one hand, and within aesthetic judgment and the creative acts of genius on the other, might not be loosened.[30] She also suggests that this concept might be employed to introduce substantive content to Kant's formal account of practical reason (ie moral judgment), observing that Kant never explains exactly '*how* rational insight works upon its phenomenal problematic data (the situations of beings who are phenomenal as well as noumenal)'.[31]

Challenging Kant's rigid distinction between cognitive (empirical) judgments on the one hand, and moral and aesthetic judgments on the other, Murdoch argues that 'perception itself is a mode of evaluation':

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[30] Murdoch, *Metaphysics as a Guide to Morals*, pp308-333. Other theorists seeking to theorise practical reason as a capacity to respond receptively to the 'case at hand' have also considered loosening clear-cut distinction between cognitive and non-cognitive forms of judgment. John McDowell for example draws analogies between perceptual faculties of sight and perceptual moral faculties and argues that false distinctions have been drawn between objective and subjective judgments, the cognitive and affective: Just as within a visual experience judgments about colours state that a certain response to some property in the object that we detect is appropriate, given a certain sensory equipment '[s]omewhat similarly we can learn to see the world in terms of some specific set of evaluative classifications, aesthetic or moral....' Bagnoli, 'Moral Constructivism: A Phenomenological Argument', p129 quoting McDowell, 1985, p142. Also Martha Nussbaum, as we have seen, draws strong analogies between the moral actor – or person of practical wisdom – and the 'artist and/or the perceiver of art' (the former 'lies surprisingly close' to the latter) suggesting that we see 'morality as a high type of vision of and response to the particular, an ability that we seek and value in our greatest artists, and especially our novelists'. However, with Murdoch (see below) she is quick to state that she is not suggesting here that moral value ought to be 'reduced to' aesthetic value or that this view makes 'moral judgment a matter of taste'. Nussbaum, 'The Discernment of Perception: An Aristotelian Conception of Private and Public Rationality', p84.

[31] Murdoch, *Metaphysics as a Guide to Morals*, p315. While acknowledging that '…strictly speaking this "can not be said", as reason must be an ultimate faculty not explicable' in terms other than Kant himself provides. .. 'the moral exercise of reason is practical and the act or choice is, as its were, silent' … 'morality itself, and its "content" of reason (as distinct from selfish desire) cannot be assessed here below'(p315).

> When we settle down to be 'thoroughly rational' about a situation, we have already, reflectively or unreflectively, imagined it in a certain way. Our deepest imaginings which structure the world in which 'moral judgments' occur are already evaluations. Perception itself is a mode of evaluation. Any account of morality must at least set up the problem here.[32]

Murdoch observes that Kant does tell us that the imagination, as a productive faculty of cognition, is a powerful agent for creating a second nature out of the material supplied by actual nature. She suggests that if imagination can be understood to create 'a second nature' then '[t]his idea can go very far, farther perhaps than its author intended'.

> If we let art out of the small corner denoted by 'fine art' and 'genius', then we may want to maintain that the world around us is constantly being modified or 'presented' (made or made up) by a spontaneous creative *free* faculty which is not that of 'reason' thought of as 'beaming in' upon purely empirical situations not otherwise evaluated.[33]

Murdoch's view that the faculty of imagination might serve a creative function within not only aesthetic judgment, but also in acts of perception, through which we constitute our human 'reality', strongly echoes the constructivist view that acknowledges the role of human perception in the constitution of 'reality', and in so doing affirms human responsibility for shaping this reality.[34] Murdoch also argues that the faculty of imagination be viewed as a more generic faculty, needed to overcome 'fantasy' or prejudices, which block our view of what is there in front of us. She suggests that this is a faculty which must be exercised by the moral agent as well as the creative artist.

> That spontaneity of imagination which Kant allows in empirical knowledge
> (ie in the 'creation' of an object), and also in artistic genius and sublime

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[32] Ibid., pp315, 314.

[33] Ibid., p314. (Murdoch's italics)

[34] '*How* we see our situation is itself, already, a moral activity, and one which is , for better as well as worse, "made" by linguistic processes'. Ibid., p315.

> experience, has its place in morals too. The good (better) man is *liberated* from selfish fantasy, can see himself as others see him, imagine the needs of other people, love unselfishly, lucidly envisage and desire what is truly valuable. [35]

She suggests that alternatively, the work of the aesthetic imagination in artistic fields may be seen as a symbol of its operation elsewhere. We might say 'there is artistry in the sorting, separating and connecting movement of the mind in other areas, in science and scholarship, and in morals and politics where an ordering activity is fused with an ability to picture what is quite other...'. Murdoch argues that reflection on the concept of imagination is an essential one, not the least perhaps because it can strengthen or clarify the sense in which 'we are all artists'. [36]

Given that Kant also characterised the moral law as 'spontaneous and free', and the exercise of reason is also seen 'here below' as 'a creative force of freedom, acting against irrational barriers' why then must the imagination be kept so separate from morality within his philosophy? Must 'fine art' and 'genius' as described by Kant, 'really be confined to such a small corner of human faculty and experience'?[37]

Kant's Resistance to a Broader Conception of the Imagination

Murdoch suggests that for Kant, morality *must* be fundamentally based on (negative, unconditioned) freedom and not imagination, for imagination is a 'mixed matter': in its basic transcendental use it 'knows' both mind and

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[35] Ibid., p331.

[36] Ibid., pp321-322. She suggests that the imagination appears within 'ordinary situations' 'as a restoration of freedom, cognition, the effortful ability to see what lies before one more clearly, more justly, to consider new possibilities, and to respond to good attachments and desires which have been in eclipse'. Here the imagination serves a similar function when 'composing' and 'holding' a difficult work of art in one's attention. (p322)

[37] Ibid., pp309, 316. Murdoch writes 'Teaching art is teaching morals'. (322)

[37] Murdoch, *Metaphysics as a Guide to Morals*, p309.

senses. Kant is happy to say that beauty 'symbolises' morality 'because the free imagination in its co-operation with the orderly rule-giving understanding, when in contemplation it creates and sustains beautiful objects, is *like* the free activity of the moral will in obedience to laws of reason'.[38] However, he will not identify it as a moral faculty, as the rule it follows, is the rule of the particular, found in the phenomenal realm.

> Empirical knowledge and moral judgment depend upon *rules* given by the understanding and reason respectively. The art object too must accord with rules, that is have form, but here, in the creation of good art, the rules are not general rules, but rules invented in and for the making of the individual object itself. The object asserts and establishes its own method of verification.[39]

Murdoch also suggests that perhaps Kant wished to avoid employing this creative faculty to account for moral action because 'the ideal of such an exceptional and godlike power', which Kant attributes to the aesthetic imagination, 'might be felt to be inappropriate in a strict account of morality'.

> As moral agents we are not called upon to be original geniuses but to be good persons. ... Morality concerns what an ordinary man may be expected to be able to do ... the imagination, in its free play, is a more independently speculative faculty, and may be so because what it does, in its discernment of the beautiful, in a sense does not matter. The good is compulsory, the beautiful is not.[40]

Murdoch is suggesting that Kant rejects the association of a moral power with a faculty hitherto associated with the creative genius, on the grounds that such a faculty must be attributable to all within an egalitarian moral order. Here the same Kantian criterion, ie equality of respect, that I employ

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[38] Murdoch, *Metaphysics as a Guide to Morals*, p310.

[39] Ibid., p313.

[40] Ibid., pp310-311. 'Geniuses are not necessarily good. Beauty is an *image* of morals, it is not about action in the world, and the imagination which cannot state its laws is a lower faculty, the partner of the understanding not of the reason'. (p313)

to defend the *collapsing* of a distinction between faculties of judgment, is employed to oppose such a move.

I have argued above that a more capacious and hence more egalitarian Kantian account of autonomy will identify autonomy with the exercise of the generic capacity for creative action and the realisation of transcendent values within any vital sphere of practice. Here I am deliberately seeking to bring the transcendent (that which is the source of anything new, original, unique) into every practice in which shared authoritative standards are revised and reinvigorated through receptive attention to what is there. Moral agency can be best affirmed if we are all viewed as potential 'geniuses' within the spheres of practice in which we are engaged.

My position here also differs radically from Arendt's view, evident in her reflections on the humanist statement of Cicero: 'I prefer to go astray with Plato rather than hold true views with his opponents'. Arendt interprets this passage as saying 'It is a matter of taste to prefer Plato's company and the company of his thoughts even if this should lead us astray from truth'; Cicero is saying that for the true humanist, neither the verities of the scientist nor the truth of the philosopher nor the beauty of the artist can be absolutes (for beauty compels 'those who have trained their senses' as much as truth compels those of us who have trained our minds). Rather, because the humanist is not a specialist 'he exerts a faculty of judgment and taste which is beyond the coercion which each specialty imposes upon us'. This Roman *humanitas* applied to men who were free in every respect: 'for whom the question of freedom, of not being coerced, was the decisive one – even in philosophy, even in science, even in the arts'. 'As humanists, we can rise above …conflicts between the statesman and the artist as we can rise in freedom above the specialties which we all must learn and pursue.'[41].

[41] Arendt, 'The Crisis in Culture', p225.

In contrast I am arguing that it is by learning a specialty, by learning to be free to respond to what is there, indeed, to *obey* what is there, and revise and reinvigorate our existing standards within the activities in which we are engaged accordingly, that we can learn to respond to what is there and recognise the capacity to do so in others within other fields. It is by virtue of the generic faculty of critical judgment (as creative action), that we learn within a particular realm, that we can exercise critical judgment within other realms. Learning a specialty *is* learning freedom. We learn to be humanists through commitment to a single speciality.

Murdoch's Objections to Collapsing the Distinction between Aesthetics and Morals

Most of Murdoch's reflections on the Kantian faculty of imagination err towards support for the appropriation of Kant's generally sketchy reflections on faculty to account for a generic faculty needed to perceive more acutely, recognise and overcome prejudices, respond more creatively, and engage in the various forms of judgment through which we individually and collectively constitute our world. However Murdoch, pulls up short of fully affirming a collapsing of the distinction between moral and aesthetic judgments.

> Of course art and morals have a different status, altogether a different place in human life ... Good life is required of us in a sense in which good art is not. ... Morality is ubiquitous and we expect a primary recognition of it; whereas we do not have to be, in the ordinary specialized sense of that word, artists. If we are artists, we are not morally blamed for being bad one's (mediocre, tenth-rate, etc.) unless there are special circumstances. We may for instance be blamed for wasting our time ... or for deliberately and wilfully debasing our talents by producing bad commercially successful work.[42]

In the end she too seems to want to perpetuate the prevailing, fundamental, qualitative distinctions between first, creativity of 'genius', second, the

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[42] Murdoch, *Metaphysics as a Guide to Morals*, p333

judging process of people who are engaged in other kinds of non-moral activities, and third, the judgment required of all of us as moral agents.[43]

Further support within the literature for collapsing distinctions between the critical faculties which ground aesthetic, moral and cognitive/empirical judgment must be found elsewhere – a task which neither space not time permits here.[44]

Equality of Respect and the Equality of Spheres of Practice and Forms of Judgment

I have argued above that collapsing the traditional philosophical hierarchy between different forms of reasoning does not undermine, but is rather a reflection of commitment to equality of respect for a plurality of peoples: only if the different forms of rationality and realms of practice through which people realise transcendent values are accorded *equal* moral and epistemic value, can the different ways in which people exercise judgment (ie favouring variously faculties of sense, feeling or intellect) be accorded due recognition, and a theory of autonomy avoid privileging discursive forms of

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[43] Kant himself specifies that the product of genius is an example that is not meant to be imitated but rather 'to be followed by another genius ... who follows the example, is aroused by it to a feeling of his own originality, which allows him to exercise in art his freedom from the constraint of rules, and to do so in a way that art itself acquires a new rule by this…. [But] since genius is nature's favourite and so must be regarded as a rare phenomenon…' Kant, *Critique of Judgment*, pp186-187. For a critical evaluation of Kant's elevation of genius to the transcendent, away from older notions of exemplary validity which affirmed the role of receptive attunement to the particular see Gadamer, *Truth and Method* .

[44] Certainly *redressing hierarchies* between different forms of reasoning is a major concern within feminist literature. See for example Ruddick, 'Maternal Thinking', Porter, *Women and Moral Identity* . Radical ecological political perspectives also challenge the privileging of 'anthropocentric' moral reasoning which accords primary value to human life. See George Sessions (ed.), *Deep Ecology for the Twenty First Century: Readings on the Philosophy and Practice of the New Environmentalism* Shambhala Press,Boston, 1995.

reasoning traditionally identified with moral reasoning within Kantian philosophy.

The identification of creative action as a *generic* potentiality, its equation with human autonomy, and with the realisation of *any* transcendent value, can be interpreted as bringing (elevating if you like) all realms of human activity into the *ethical* arena: Human autonomy as the exercise of creative action within *any* vital sphere of practice, constitutes a conceptual resource that can be employed to highlight the qualitative difference each individual's actions make (regardless of the kind of sphere of practice in which they are engaged) to the constitution of our shared reality. In this way the socio-political significance of participation within any realm of activity can be underlined and the agency of human beings within all realms of human endeavour affirmed. The proper focus for a theory of autonomy ought not be restricted to questions of moral order and justice, but broadened out to the more generic notion of practice instead.

Conclusion

I conclude, then, that while I have found only sketchy support within the Kantian literature for a collapse of Kant's distinction between different forms of judgment, a persuasive argument, derived from Kant's commitments to human equality, freedom and plurality can be constructed in its favour. That is, there are persuasive Kantian grounds for rethinking Kantian autonomy and practical reason as a substantive generic potentiality which is grounded in human unconditioned experience within the world. In this view it is not the conditioned realm of necessity which stands opposed to the unconditioned ground of the autonomous agent. Rather it is thought itself, that which conditions and brings form to our experience, shaping how the world appears for us, which is opposed to unconditioned moments of experience – the spaces *between* our habitual views of, and hence responses to reality. The fundamental source of our autonomy is our capacity to momentarily drop our pre-conditioned views, and by opening up this gap between pre-existing forms and thoughts, attend to some hitherto unknown aspect of experience. In so doing we can gain critical distance from our habitual perspective so that on returning to the conditioned world, we have the opportunity to experience, and thereby constitute it differently.

Conclusion

How are we to think about justice, truth and other transcendent values at a time when these are radically contested? When not only is there heightened awareness of the great diversity of forms these values can take, both within multicultural states and globally, but when their very existence has been subject to radical philosophical critique.

In this thesis I have reconceived trans-cultural, transcendent values via a minimally substantive, maximally inclusive theory of autonomy. The theory has been designed to affirm human plurality and fully acknowledge the historical and situated character of human existence, without falling into relativism. The argument has proceeded from Hannah Arendt's conviction that given the beleaguered state of ultimate values, unless we are to resort to faith in 'a new God' to orient our 'words and deeds', we must affirm human capacity for autonomous judgment; the lessons of Nazi totalitarianism and example of people of the likes of Adolf Eichmann have taught us that at this juncture in history, only if our capacity for responsible judgment, our autonomy is affirmed, can we sustain a world fit for human habitation.

My strategy has been to construct a theory of autonomy which addresses the challenges that historicism, pluralism and the critique of identity/difference pose, particularly to the task of theorising trans-cultural justice. The theory is built on first, Onora O'Neill's constructivist reading of Kant's vindication of Reason, and second, a two-tiered structure I extract from Kant:

O'Neill identifies as the source of reason's authority its standing as the commonality that must be presupposed, if an otherwise uncoordinated plurality of people(s) who must share a world, are to resolve conflicts through communication rather than resorting to force. Appropriating this vindication of reason, I reconceptualise autonomy so that it can stand, in the light of contemporary historicist, pluralist and post-structuralist critiques and commitments, as the commonality needed to account for the possibility a uncoerced resolution of conflict between a plurality of people(s).

The two-tiered Kantian structure which provides the scaffolding for the proposed theory rests on my argument that freedom *from* causal conditions is fundamental to Kant's personal views on human dignity, his notion of the Public Use of Reason, as well as his more formal accounts of moral autonomy, aesthetic judgment and the creativity of genius.

Within his theory of autonomy, Kant insists that if human beings are to stand as the source of their own actions and hence as responsible agents, then it must be posited that human action can be *other* than always subject to the pushes and pulls of relations of causality integral to the 'conditioned', phenomenal world; the formal notion of the purely 'unconditioned' must be admitted. This unconditioned component I identify as the first, unformed tier of the two-tiered Kantian structure.

Kant goes on to argue that unconditioned freedom, freedom *from* determinate constraints, constitutes a mere lawlessness which must itself be ordered by some kind of regulating principle to account for full autonomy. This law must not, however, negate the idea that (formal) autonomy is fundamentally grounded in the unconditioned. For Kant, the moral law constitutes the requisite regulating principle. This I identify as the second, conditioned or formed tier within the two-tiered structure.

Building on Kant further, I argue that an account of autonomy (or practical reason) adequate to this Kantian two-tiered structure must, and again with Kant, give *priority* to the unconditioned component, while at the same time admitting that the unconditioned itself requires the constraint of authoritative shared standards or laws. Here I take issue with both Onora O'Neill's and John Rawls' Kantian constructivist approaches to theorising practical reason:

With Rawls and O'Neill I too employ a broadly constructivist approach to theorising autonomy - to the extent that is, that constructivism is identified with commitment to affirm human agency and the possibility of trans-culturally authoritative, transcendent values, while embracing historicity. I argue however, that because both O'Neill and Rawls presuppose the authority of shared standards of discursive reason, and do not fundamentally ground their conceptions of practical reason on freedom *from* causal conditions, neither theorist fully addresses Kant's deeply held views

on human dignity, nor fully affirms the autonomy and responsibility of the judging subject. Further, by failing to view the unconditioned as fundamental to human autonomy, O'Neill and Rawls deprive their theorising of an invaluable explanatory device when theorising pluralist conceptions of justice and practical reason, particularly as freedom from causal conditions represents a potential point of trans-cultural commonality which privileges no particular socio-cultural group.

How then, to translate the Kantian two-tiered structure and O'Neill's interpretation of his vindication of reason into a contemporary theory of autonomy? Before preceding any further it first needs to be acknowledged that employing the metaphysically problematic Kantian notion of the unconditioned within a *substantive* conception of autonomy requires radical revision of Kant's own transcendental philosophy. Here I argue that strong Kantian justification for such a rethinking can be found in Kant's own views on the historical evolution of Reason, on practices of toleration as fundamental to reason's authority, as well as Kant's own emphasis on the non-empirical ground of moral autonomy.

To bridge the gap between Kant and relevant debates within contemporary philosophy and political thought, I then bring into focus core commitments and concerns within arguably the two major, dominant contemporary streams of thought:

The first 'Dignity' stream I identify with the liberal, Anglo-American Neo-Kantian tradition (including Kant, Rawls, O'Neill and Habermas). I characterise this stream as centrally concerned with the justification of principles of deliberative justice and as centrally committed to the accommodation of plurality, to the emancipatory project of affirming personal autonomy and to the authority of reason.

The second 'Difference' stream I identify with poststructuralist continental thought (Foucault and Derrida in particular) strongly indebted to Heideggerian ontology. I characterise this stream as centrally committed to the contrasting project of subverting and destabilising particularly dominant normative ideals, and to opening up spaces for the appearance of the new, different and Other. Informed by Foucault's analysis of power, the post-structuralist critique of identity/difference and the critique of the logic of

identity, the Difference perspective champions that which is excluded, silenced and rendered different and other, that which falls out-side of the grasp of the 'will to mastery' of modernist projects.

Iris Marion Young's critique of the oppressive implications for minority groups of liberal ideals of reason, impartiality and justice, a critique strongly indebted to the Difference project, is of particular relevance to the task of rethinking autonomy as the commonality needed to realise trans-cultural justice founded on (un-coerced) communication. First, Young's critical analysis of theories of distributive justice within the social contract tradition which assume that justice proceeds from shared standards of justice, underlines the need to address the diversity of meanings a plurality of people(s) bring to cases of trans-cultural justice. Second, Young's criticism that theories of distributive justice generally privilege people(s) who have greater facility in the exercise of discursive critical faculties, highlights the socio-political significance of acknowledging the diversity of capacities people employ in their deliberative processes. Finally, Young's discussion of Giddens' three-level model of the subject and Kristeva's theory of the 'abject', highlights the often unconsciously and deeply held aversions and prejudices that can block respectful engagement between different others. Justice theorised as proceeding from uncoerced communication between different others must consequently address the often invisible oppressions and the unconscious behaviours that take place when members of privileged groups engage with members of minority groups, and explain how such prejudices and behaviours can be brought into awareness and overcome.

With the contrasting projects and commitments of the Dignity and Difference streams in view I then dig further into the ontological and epistemic commitments which underlie each:

Following Stephen White I identify the Dignity justificatory project with a moral-political sense of 'responsibility to act'. This project gives priority to legitimating 'action-coordinating' normative ideals needed to plan, organise and coordinate action within the world. This project also reveals implicit epistemic commitment to the 'action-coordinating' function of language, and to an associated, prevailing epistemological perspective within the western philosophic tradition that assumes that 'truth' pertains to the warranted justification of assertions.

The Difference stream's contrasting project of destabilising normative ideals and opening up spaces for the appearance of the new, different and Other is informed by a sense of 'responsibility to otherness'. In contrast to justificatory projects which employ a representationalist view of language as a tool that can be used to defend, legitimate and 'fix' as authoritative particular identities or representations *of* reality, the Difference theorist views language-use principally as a way of being, or mode of comportment within the world. The latter view is indebted to an Heideggerian ontological perspective which holds human beings to be embedded within a World constantly being reconstituted through language. This perspective affirms a 'world-disclosing' view of the function of language as disclosure of what is there to be revealed and a corresponding conception of truth as indicative of 'knowledge of acquaintance'. Here a claim to 'truth' indicates that what is being pointed does in fact disclose what is there to be revealed.

I argue that the political, ontological and epistemological commitments of both the Dignity and the Difference streams must be addressed within the proposed theory. On the one hand social and political order requires shared, authoritative, well-founded standards. On the other, however, a political theory adequate to the Difference project must avoid legitimating the fixing or ossification of such standards. While it is inevitable that authoritative standards will favour some identities over others, o*ssified* authoritative standards systematically close of opportunities for the appearance of the new, different and other and thus serve to perpetuate relations of domination and oppression. To avoid being implicated in the fixing of identifies, contemporary political thought must engage with rather than cover over or evade the awkward predicament William Connolly calls the 'paradox of ethicality': that standards of identity and responsibility needed for ethical discrimination do 'violence' to those to whom they are applied.

Theorists seeking to put forward alternative ontologies or ideals of justice while also engaging with the paradox of ethicality have employed several strategies to mitigate against theorising in ways that perpetuate the blindness to difference and relations of oppression. These strategies include: employing only highly capacious, abstract and general assumptions about human commonality; seeking to distance theorising from the foundationalist projects by specifying that positive proposals put forward are grounded in

the experiences of oppression, in 'heeding a call' rather than positive, metaphysical ideals of subjectivity and the good; and disavowal of any claims to truth, instead characterising normative theorising as engaged in immanent critique which awaits response of others in 'situated political dialogue'.

Within the proposed theory I too endorse the strategy of employing and defending only highly capacious normative ideals. However I argue that a theory of autonomy which avoids appealing to a substantive metaphysical framework and affirming a conception of truth which admits that which transcends the culturally conditioned, deprives itself of the conceptual resources needed to theorise a substantive account of autonomy and trans-cultural justice. First, and as Kant saw, only an account of autonomy which affirms that which transcends cultural forms, can affirm the freedom and responsibility of the judging subject (as only that which transcends can be other than necessarily determined by relations of causality). Second, only an account of justice which affirms that which transcends cultural forms and boundaries can so far as possible embrace human plurality (as only that which transcends the culturally conditioned privileges none, by being particular to none and common to all). I also argue that appealing to the realm of political practice to vindicate a normative theory rather than or over and above standards integral to the discipline of political thought, erodes vital distinctions between the spheres of political theory and practice, and to the detriment of both.

With the core commitments of particularly the Difference stream in view, it becomes evident that the proposed theory must address the following question: How to theorise and construct a philosophical defence of autonomy and trans-cultural justice, without implying the trans-cultural or universal authority of philosophic standards (ie of reason, logic etc) to which appeal is made in so doing, and hence being vulnerable to the charge of privileging standards internal to a particular cultural tradition?

To address this question I draw parallels between the two-tiered structure of Kantian autonomy and the two contrasting sets of political and epistemic commitments within the Dignity and Difference perspectives. I argue that if human plurality and particularity are to be embraced as far as possible, the theory must employ an epistemological framework which admits that which

transcends socio-cultural forms – that is, the unconditioned; truth must be viewed as indicative of more than merely warranted justification, as *also* signalling disclosure of what is there or knowledge of acquaintance. In addition, just as Kant held that a formal account of autonomy requires both an unformed component (ie the unconditioned) and a formed component (ie the moral law), and also held that the authority of the latter must be grounded in the former, so too must epistemic priority be given in the proposed account to the destabilising, world–renewing/disclosing function of language, over and above the shared standards and language's action-coordinating function. Only then can commitments to attend receptively to the new and different avoid being trumped by adherence to the authoritative standards (ie of reason, logic etc), to which appeal is made in the course of constructing a philosophic defence of conceptions of autonomy and justice defended within the theory.

I specify further that if strong contemporary commitments to plurality common to both the Dignity and Difference streams are to be fully addressed, then the theory of autonomy must stand as *minimally substantive* (or determinate) and maximally capacious (or inclusive). The minimal universal commonality identified with autonomy must nevertheless have sufficient substantive content to account for the possible resolution of trans-cultural conflict through communication rather than coercion.

Having identified the key features of the formal structure of the theory, I then begin to introduce substantive content to the conception of autonomy. I first note however that Richard Campbell's and Emil Fackenheim's conclusions that an historicist conception of human being must admit the transcendent, and that an historicist conception of truth must find a transcendent ground *within* the world, cohere well with my proposal to ground human autonomy and the possibility of trans-cultural justice and truth in the unconditioned, reconceived as a substantive experience within the world. I also note that Arendt's observation that it may be 'thought itself' which brings conditioning, determining form to our experience, is suggestive of my proposal to substitute Kant's opposition between the unconditioned noumenal and the conditioned phenomenal, with an alternative opposition between unconditioned moments of human experience, and the conditioning form that thinking processes bring to this experience.

To introduce substantive content to the conception of autonomy I draw on Hans George Gadamer's tradition-dependent account of hermeneutic truth, Simone Weil's concept of attention, and the practice-dependent accounts of reason and justice of Alasdair MacIntyre and Michael Walzer respectively. Within both Weil's attention and Gadamer's hermeneutic judgment I again identify the two-tiered structure found in Kant. Here the unconditioned component in Kant corresponds to a (substantive) moment of receptive attention in which all preconceptions, thoughts, prejudices are dropped and the actor/exemplar attends to what is there. The second conditioned component is identified with the moral law in Kant and associated with action-coordinating standards generally, corresponds to Weil's and Gadamer's acknowledgements that pre-existing background knowledge or tradition-dependent 'prejudices' are integral to the possibility of exemplary engagement and interpretation. Building on Weil's and Gadamer's work, as well as Neo-Aristotelian conceptions of practical reason, I propose that the realisation of autonomy be equated with *creative action*.

First, corresponding to Kant's view that freedom *from* the conditioned is fundamental to autonomy, here capacity for *receptive attention* – capacity to drop all conditioned forms and attend to what is there – is viewed as fundamental to autonomy as creative action. Second, corresponding to Kant's view that unconditioned freedom must be ordered by determinate standards which themselves derive authority from the unconditioned, autonomy as creative action similarly grounds the shared authoritative standards integral to Kantian autonomy in the unconditioned, reconceived, however, as the substantive experience of receptive attention. The second tier of creative action is thus identified as *responsive judgment*: the revision of existing authoritative standards within any vital sphere of practice in response to the experience of receptive attention. Integral to this conception of autonomy then, is the conception of *vital spheres of practice*: complex realms of human activity in which transcendent values are realised through creative action.

This two-tiered conception of autonomy coheres with and is integral to two-tiered conceptions of truth, justice and other transcendent values. Here all transcendent values are viewed as grounded in first, the radically indeterminate universal potentiality to experience an unconditioned moment of receptive attention, and second, responsive judgment, the revision and

revitalisation of existing culturally relative and tradition-dependent standards internal to a vital sphere of practice, in response to the moment of unconditioned experience. The first tier addresses the Heideggerian view of truth as grounded in *aletheia*, disclosure of what is there; the second tier, the Dignity commitment to account for the warranted-assertability or well-foundedness of truth claims. By according epistemic priority to the first unconditioned tier, the theory can affirm the possibility of realisation of trans-culturally vindicated standards of truth, justice and other transcendent values without in so doing, privileging culturally-relative standards internal to any particular culture, tradition or sphere of practice, standards integral to political thought and philosophy in particular.

Having outlined the two major substantive features of autonomy as creative action the implications of the proposed theory for tradition-dependent accounts of practical reason, justice and truth can be considered.

In spite of the valuable substantive content particularist accounts of practical reason bring to normative political thought, particularist justificatory strategies are vulnerable to charges of arbitrariness as they fail to explain how trans-culturally authoritative standards might be justified: Commitment to defending the authority, autonomy and integrity of tradition-dependent forms of rationality against encroachment by dominant forms of reason (ie economic, technocratic, scientific) has so far prevented moderately-relativist particularists such as Gadamer and MacIntyre from explicitly appealing to or fully theorising metaphysical or transcendent conceptions of truth. In contrast, the proposed two-tiered theory is able to overcome tensions which arise when seeking to protect the integrity and autonomy of cultural traditions and their internal standards of rationality and truth, while pursuing the philosophical task of constructing a pluralist account of the possibility of trans-cultural justice (and truth). Key strategies employed to resolve these tensions is to first ground the proposed account of autonomy in an unconditioned moment of receptive attention, and second, insist on the *equality* of vital spheres of practice:

First, by grounding autonomy in the unconditioned (that which is common to all by virtue of being particular to none), and by employing an epistemological framework also fundamentally grounded in the unconditioned (the universal human potentiality for a moment of receptive

attention), the theory is able to affirm the possibility of trans-cultural transcendent values without, at its foundation, privileging the tradition-dependent standards internal to any particular socio-cultural group or practice.

Second, by taking Pascal's insight into the autonomy of different 'companies' or realms of justice Walzer used as springboard for his *Spheres of Justice* one step further than Walzer did, and insisting on the equality of vital spheres of practice, the theory can be defended as a universalist account of autonomy, without in so doing implying that the authority of the tradition-dependent and relative standards of philosophy, to which appeal is made to defend the warranted assertability of this claim, ought extend beyond this realm of practice. While it must be conceded that only vital spheres of practice (and the authoritative standards within them) are being defended here, this 'privileging' is justified on the grounds that these must be affirmed within a maximally inclusive, pluralist conception of autonomy, justice and transcendent values.

In addition to addressing the problem of theorising a philosophically vindicated tradition-dependent theory of truth, the proposed theory also shows how a substantive account transcultural *justice* can be constructed without, in contrast to existing theories in the social contract tradition, in so doing presupposing the universal validity of standards of justice of a particular culture or tradition. Here realisation of trans-cultural justice is understood to hinge instead, fundamentally, on the exercise of creative action by exemplars on both sides of a case, and mutual recognition by both parties that their counterparts have also exercised creative action in the process of realising 'justice'. The latter is understood to obtain if the outcome first, has been achieved through the process of receptive engagement between the parties, fundamental to which is the exercise of the universal potentiality for receptive attention, and second, coheres with and/or has required the revision of existing standards of justice *internal* to the two traditions or cultures. Here we see again at work the two tiered Kantian structure which at once admits the importance of shared authoritative standards, while at the same grounding the authority of these in that which transcends cultural forms – the unconditioned.

I have constructed, then, a theory of autonomy designed to respond most adequately to contemporary debates seeking to reconcile justice and truth with historicism, pluralism and the critique of identity/difference. I have argued that a response fully adequate to these debates will address key concerns and commitments of both the Dignity and Difference streams of thought, and rethink autonomy as the minimally substantive human commonality needed to account for the possible realisation of trans-cultural justice. I have proposed that autonomy be reconceived as creative action, defending this conception as a substantive reinterpretation of Kantian autonomy and appealing to the same grounds to which Kant appeals to vindicate Reason to do so: that it stands as the minimal commonality which must be presupposed if a plurality of people(s) are to resolve conflicts through communication rather than coercion. In contrast to Kant however, whose focus is on theorising formal rather than substantive autonomy, and who also makes clear distinctions between empirical, moral, aesthetic as well as political forms of judgment, autonomy as creative action is reconceived as a substantive generic human potentiality requisite for the realisation of *any* transcendent value, within any realm of human activity. Creative action is conceived, building on a formal structure extracted from Kant, as a two-tiered conception of autonomy that consists of an unconditioned moment of receptive attention and responsive judgment.

By defending autonomy as creative action on the grounds that it is the generic potentiality requisite for realisation of trans-cultural justice, the thesis provides a strong argument for fostering and protecting those realms of human activity centrally committed to the realisation of transcendent values through creative action. On this view the possibility of justice, truth and other transcendent values rests not so much on the legitimation of shared transcendent standards, but rather, the exercise of the generic capacities needed to revitalise and renew the great plurality of forms in which transcendent values are manifest. The thesis shows that we can begin to address our universalist, egalitarian commitments to justice, truth and other transcendent values by bringing our transcendent universals home, back into the world, and attending to what is there. Transcendent, universalist commitments begin to manifest in practice through attention to the particular in the realms of human activity in which we are engaged in our everyday lives.

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