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A PHENOMENOLOGICAL ETHICS 

Phenomenologists are sometimes taken to task for not providing an ethics as part of their philosophy. Sometimes a more fundamental complaint is made: phenomenology cannot yield an ethics. Phenomenology, after all, is primarily descriptive, and since a descriptive Is cannot lead to a normative Ought, phenomenology by its very nature cannot provide an ethics.

In this paper I wish to contend that an ethics does indeed grow out of phenomenology, even though phenomenology is primarily descriptive. The sort of ethics that results may not be a traditional sort, and it may not do what we have traditionally asked ethics to do. But a main aim of this paper is to show that the traditional methods of ethics rely implicitly on an insight phenomenology makes explicit and uses, and that the traditional aims become modified once one recognizes the tradition's implicit use of this insight.

I will thus be arguing that traditional ethics cannot do what it claims to do, and in what it in fact does we find a clue for the genuine (and phenomenological) method and aim of ethics.



wrong. Throughout I will use "ethics" to refer to the philosophical study of morality; for reasons that will become clear, I prefer the phrase "philosophy of morality", but for now will use the more conventional phrase.] Let me propose one: Anything that begins with R is evil, and only things that begin with R are evil.

How is it that we decide the R Principle is wrong? After all, it works for rape, robbery, rampaging, and using the rack. But righteousness starts with R, and thus must be declared evil. Further more, murder does not, and so cannot be called evil. We thus dispense with the R Principle.

We did so for a simple reason: the R Principle does not enable us to make the distinctions we already know are to be made. Our certainty that murder is wrong is greater than our certainty that the R Principle is right. I take it as a principle of phenomenology that when theories conflict with carefully observed experience, the theory is to be discarded, or at least called into question. Thus, we have been operating as unwitting phenomenologists all along (although, in a strong sense, to operate as an unwitting phenomenologist is not to operate as a phenomenologist at all.)

This is a silly example, however. Let us take a more plausible one, the Utilitarian principle that an act is wrong if it results in an overall increase of pain and good if it results in an overall increase of pleasure. Let us say you present that

to your Intro Ethics students for their consideration. You give some examples where it works. But then you allow them to find (or present to them) some examples where, under somewhat bizarre circumstances, the principle would require one to kill the innocent. The students now reject the principle, and so you move on to Rule Utilitarianism.

What you have done is not merely a pedagogic trick. It is in fact how we decide about proposed moral principles. [I leave out of account moral principles which are self-contradictory, which we can reject without looking to imagined cases at all. But such principles are rarely proposed. And by self-contradictory, I do not mean in Kant's sense in which the outcome of universalization would be a world in which the practice could not be indulged. I mean principles such as "Thou shalt kill and not kill the same person in the same way at the same time." We see if they work. But 'work' means 'guide us in the way we already know is correct.' Even though they sound prescriptive, we only accept them if they are in fact descriptive of what we already know is right and wrong. In this sense, all ethicists are unwitting phenomenologists in that they judge principles by how well they describe experience (or, instead of 'experience', 'how we are in our world').

One arrives at this same conclusion by asking a closely related question: Why is it that counter-examples are so effective in showing proposed ethical principles to be inadequate? By giving a counter-example, the philosopher presents a case in which we all know what is right and wrong, and

yet a case which the moral principle fails to distinguish correctly. Counter-examples rely upon the pre-philosophical moral sense of the interlocutors. This is perfectly proper, and although ethicists may or may not be happy about it, phenomenologists are delighted.

But surely that is only a first step. If a moral principle survives the vetting of counter-examples, it can then be used to decide about the morality of unclear examples. Thus ethics is more than merely descriptive.

Here it is important to notice two points: 1) This methodology is modeled on science's and is inductive: because the principle works in all the cases we have imagined, we assume it will work in other cases. But traditional expands not to similar cases but to harder cases where the principles may not work as well. 2) Ethics learns its trade with the usual cases but works with the unusual. There may be something methodologically suspect about this; it may be akin to basing a theory of language on what happens when people have a word on the tip of their tongue.

It is worthwhile, in any case, simply to notice that ethics rests on a descriptive base. Phenomenology concerns itself with that base. This is one place where a phenomenological ethics can begin.

But it may sound as if all that I have said has been said before by Intuitionists. After all, I seem to be saying that we have some strange way of immediately knowing what is right and wrong, and this sense is to be trusted more than our intellectual attempt to come up with an abstract principle.

That is not what I meant. 1) Intuitionism proposes a faculty which is uncanny. Phenomenology can never say anything too strange, for it is committed to describing how we actually live in our world. I cannot locate a faculty, or exercise, of intuition in my own life, and I doubt that you can either. 2) The idea of intuition seems to involve the idea that if X is intuited, since X is known through intuition, X cannot be wrong. But that is not so of phenomenological ethics. To describe human life as being in any meaningful sense infallible about any important issue would certainly be to misdescribe human life. [There will be a sense, however, in which we can, along with Wittgenstein, claim that some sorts of things we cannot be mistaken about although we can have mental breakdowns that cause us to get them wrong. See On Certainty.] 3) Intuitionism provides a cognitive faculty as the source of our ethical knowledge. Phenomenological ethics is not concerned with ethical knowledge, for we are not primarily in the world as know-ers, not even as intuitional know-ers. As I shall soon try to show, we do not come by the values which allow us to engage in the method of counter-example (and, more important, which allow us to live a human life) by knowing them. They are instead part of the way in which we live in the world pre-reflectively.

It may seem, then, that I am saying that ethical principles are discovered and verified by reference to experience, but that once a principle has been verified, it may be applied to new cases. Thus, ethics starts out descriptive but from this develops a normative capacity. But that in fact is not what I

mean. That places far too much emphasis on principles. 1) We do not live by principles. 2) We only turn to principles when we are uncertain about how to act. 3) The emphasis on principles derives from the emphasis on using ethics to solve ethical dilemmas (and thus from the nature of modern philosophical ethics). 4) That emphasis covers up a) our real relation to our world, b) the real way we resolve ethical dilemmas. In short, the emphasis on principles is due to the mistake of thinking of ethics in terms of knowledge: philosophical ethics is by nature reflective, and so it rather naturally has assumed that it is studying a form of rational behavior. But it is not.

We need to talk about the role of principles. If we can reach principles inductively by examining cases about which we are sure and then use those principles to settle the hash of cases that confuse us, traditional ethics emerges intact: it begins from a pre-reflective base but manages to escape it by reaching principles. I want to argue instead that even at the level of principles, ethics can only work by implicitly relying on a pre-reflective understanding, and that this situation can best be discussed by phenomenology. Thus, ethics does not fall into two parts: phenomenological beginning, scientific-rational conclusion.

But first it is worth noting that the description implied by traditional ethics' account of moral human behavior is wrong to the point of bizarreness. In everyday activity, humans do not apply principles. We pay for the pretzel without having to apply a principle of justice. We drop a dollar into the beggar's cup without pondering the principle of charity. We slow down at an

intersection without consulting a principle of universal traffic obedience. Indeed, when do we ever consult ethical principles? If you are thinking about ethical principles, very likely it is because you are feeling lost about what to do. But those cases are rare. In ordinary life the times we must ponder abortion, the draft, or capital punishment are infrequent. Indeed, the tiems we ponder at all are infrequent. (Even then, as I shall soon maintain, you are not free from the pre-reflective.)

Phenomenologically, it is simply a misdescription of human life to say that we operate by subsuming cases under principles. The only evidence for it is that when stumped by an ethical dilemma, we start to talk about principles. But to assume that we do so ordinarily would be as foolish as assuming that ordinarily we understand what people are saying by looking up their words in the dictionary.

Let us grant that ordinarily we do not behave by consulting principles. Even so, are we not interested in the extraordinary? Isn't it the case that ethics is needed precisely when our ordinary fluency in moral matters is lost? And in those cases we apply principles. Thus, it may seem ethics is right to pursue principles.

There is no question about the pursuit of principles being worthwhile. Even if we never behave by consulting principles, it might well be interesting and rewarding to find if there are principles which characterize our behavior. After all, gas molecules do not consult principles, but they do behave in accordance with principles. But observing behavior to derive

through inducting the principles of human behavior is a job for anthropologists and sociologists, not philosophers. It is far from clear that this descriptive pursuit will yield normative prey.

But even in the rare cases in which one does consult ethical principles, one must ask what gives those principles their force. This will enable us to see that even in the unusual cases (i.e., ones in which we consult principles), we rely on the pre-reflective.

There is something peculiar about any statement with an "ought" in it. Agreement to it must be more than merely verbal. They demand something of us. How can this be possible? (An answer to this might help us toward an answer to the question "Why should I be moral?") That is, there is sense in saying that someone who says he agrees with "One ought not do X" but who does X nonetheless really has not understood the sentence. The power of Ought statements what makes them distinctive. What gives them that power?

As an example, consider what happens typically when I teach a course in ethics. I give my students an Ought statement, a moral principle, such as what we can call the Samaritan Principle that if one can alleviate a great evil at little cost to oneself, then one ought to. If you can stop crushing a dog's tail simply by leaning forward in your rocking chair, then you ought to do so. After some discussion, most students agree with this principle. (It is significant that none needs discussion in order to see what the correct thing to do in that case would be.) But further discussion discloses that many of them have bought

new stereos, new record albums, new dress shoes, even though the money they spent on those items could have been used to feed people who are starving to death. Even those students who agree with this application of the Samaritan Principle (and who have rejected opposing arguments such as "The money wouldn't help anyway," etc.) do not give up their stereos, albums, and dress shoes. Why not? Why isn't agreement with a rational principle enough? Or, to take a different example, students may come to agree that it is wrong to cause unnecessary suffering, and that the way animals are raised for slaughter in this country generally causes them great suffering. They may even agree that eating meat is unnecessary. Yet few of them will give up meat. Why not? Why isn't rational agreement with a rational principle enough?

Moral principles do not motivate us. The more we just stare at them, the more likely it is that they will start to stand before us as mere words. How can words require action? Recognizing that X is our duty but losing our motivation to do X, we become moral monsters.

What then does motivate us? A student unmoved by the Samaritan Principle still likely would give a starving person the money the student was about to spend on a restaurant meal if the starving person were standing immediately outside the restaurant. A person who has seen the de-beaked, caged chickens is much more likely to heed the vegetarian's moral argument than one who has not. In short, moral principles do not motivate us; the suffering the principles intend to alleviate (or the weal the

principles intend to invoke) motivates us.

We are moved by sympathy. The moral world is a world in which we feel compelled to act. (Yet when we want to understand what it means to be free, we ought to look to the nature of this compulsion first.) Moral principles do not compel us to act. Rather, sympathy does. The moral world, therefore, is a sympathetic world. But now, of course, we need to know what sympathy is.

I want to approach the nature of sympathy phenomenologically. As perhaps has become obvious, part of what that means is that I wish first to consider everyday cases, rather than extraordinary ones. I adopt this methodological principle because examining the extraordinary cases is done either because we have an intrinsic interest in them, or because we think they shed light on the ordinary. But if we are examining them in order to shed light on the ordinary, then the potential for being misled is high, unless we have some sort of theoretical link which tells us that that which is not ordinary is essentially like that which is ordinary. I have no such theory.

We tend to think of sympathy as a repetition in oneself of the sorrows of another. We consider it to be a special sort of feeling exercised on the occasion of the great woes of others. But, in accordance with its greek roots, I would like to broaden the meaning of sympathy: sympathy is a joining together in feeling. As such, it characterizes most of our social world, not mere occasional moments of it.

Sympathy, as I am using the term, and in contrast to what I

will call occasional-sympathy (i.e., feelings called forth on the occasion of the woes of others), is not a repetition of someone else's feelings, and is not only present in sorrow. Sympathy is not the sharing of a feeling so much as a mutual turning towards that which one has the feeling with the confidence that the world will engender the same feeling in others. (Where what has happened in the world is the least ambiguous in value-- as among survivors turning to their devastated city-- there is the strongest joining in feeling.) Occasional-sympathy directs itself only to feelings, not to the object of feelings. In the broadest sense, that about which one has feelings is the world. Sympathy, then is a turning towards the world in the company of others. But what sort of company? We not only turn towards the world which is the object of feeling, but we understand it as a world which matters to us and our fellows. The "sym" of "sympathy", is a togetherness of feeling, a recognition at the deepest level that our fellows are also creatures to whom the world matters. But "recognition" here is a misleading word to us, for recognition is a form of cognition, and my point about sympathy is that it is not cognitive at all. It is a feeling; it is our capacity for feeling things together.

But why believe what I am saying? I am attempting a brief phenomenology of sympathy, and it must be judged by phenomenology's standard: does what I have said accurately describe your own experience to you? If not, you will reject what I have said, and I will have little rejoinder.

But let me add one consideration (also phenomenological)

which I think helps make my description more believable. We are all familiar with the phenomenon of alienation. To be alienated from others is to lack any sense that one shares the same world of feeling with them; at its most extreme, one lacks any sense that others are creatures who have their own concerns. Alienation is only possible because we have the possibility of not being alienated, and that possibility is what I am calling sympathy.

But why call it sympathy? Why not pick a term that does not already mean something else? The only reason to choose "sympathy" is to raise the thought that perhaps the ordinary use of the term is inadequate. Although nothing would follow from my being wrong about what I am about to say, it seems to me right to say that occasional-sympathy is only possible because of sympathy. That is, it is only because we feel that we are in a world together with other feeling creatures that we can start crying on the occasion of another's woes. And even when we do so, it seems possible to me that often we do not cry simply because the other is crying (the way a tuning fork may induce another tuning fork to vibrate "sympathetically") but because we allow ourselves to be saddened by the event in the world that is the occasion of the tears; that is, even in occasional sympathy we are turned to the world as that about which one has feelings.

We began talking about sympathy in order to explore the source of the Ought's power particularly in the unusual cases where we consult moral principles. Moral principles have power because of the suffering they intend to forestall, or the weal they intend to bring. That suffering, or weal, can affect us

because the primary characteristic of our being in the social world is our togetherness in feeling, i.e., in letting the world matter to us. Why are we built this way? I don't know. Such a question is probably not within the bounds of phenomenology, for answers to how experience got the way it is are not themselves given within experience.

We live, then, in a world which matters to us, a world which we understand also matters to our fellows. It is because of this that ethical principles have force. This does not yet say what the role of ethics (traditional or phenomenological) should be. It is to that question which we now turn.

## II. Reflection and Pre-Reflection

The best way to decide what the role of a phenomenological ethics can be would be to attempt to talk phenomenologically about some ethical issues. There is a danger in trying to decide a priori what the limits of phenomenological inquiry should be. There is, however, a theoretical reason for this, one that can be discerned without delving into actual issues. Phenomenology resigns itself to being unable to prove its points. If we are only to believe what we can prove, then we will not believe enough, enough to live a full moral life. Phenomenology will be satisfied if its statements are accurate, and if they can be seen to be accurate by reasonable, well-meaning people. It is clear, then, that phenomenological ethics will not attempt to prove its points. But lacking the ability to prove, we are unable to prove

ahead of time what sorts of ways of help phenomenology can provide. Instead, we should see what results actually accrue.

Nevertheless, we need some initial guidance. We need initially to be reflective about what we are about to attempt. This may seem inconsistent with what I have just said. But the point I wish to develop in this section is precisely that phenomenology calls forth, and relies upon, a dialectic of pre-reflective experience and reflective activity.

I have tried to show that traditional ethics also goes from the pre-reflective to the reflective: it derives ethical principles from, and checks them against, a pre-reflective sense of right and wrong. Having done so, it then attempts to apply those principles to new cases. Yet such attempts have always failed, if success is to be measured by the rational certainty of the results. The plain fact is that there is not unanimity about which ethical principles to follow and how to apply them.

Perhaps true ethical principles have been derived and correctly applied. The empirical fact is that the world has not been convinced by those ethical principles. Tomorrow, perhaps, an ethical truth will be presented in such a clear and convincing way that all rational creatures will bow before it. But today rational creatures are obliged to wonder if there is something wrong either with the methods or goals of traditional ethics.

Traditional ethics has used the pre-reflective without paying much attention to the fact that it is doing so. It has thought it has been proceeding by reason, when in fact it has taken its principles from, and judged them by, pre-reflective

experience. Because it has not recognized its debt to the pre-reflective, it has assumed that we ordinarily make ethical decisions the way we make them when we are faced by a conundrum which pushes us into reflection, i.e., that we have settled easy cases the same way we have attempted to settle the hard ones. It that has had a blind optimism that reason can resolve the hard cases; after all, reason has resolved the easier ones. But we only have reflective, philosophical ethics because we are pre-reflectively involved in a world of value.[Philosophical ethics might be logically possible under some other circumstances, but as phenomenologist I am less concerned with logical possibilities than 'factual' ones, i.e., with the way the world actually happens to be.] The pre-reflective has guided ethical reasoning all along (and in this sense all ethics has been in a sense phenomenological), but Reason's indebtedness to the pre-reflective has been hidden (and in this more important sense ethics has been profoundly non-phenomenological).

What is phenomenology's relation to the pre-reflective? It will help here to make a few points about what I mean by pre-reflective. Phenomenology insists that our relation to the world (and the world, as a social world, includes others) primarily is not cognitive. Rather, it is a world in which we act, behave, or comport ourselves. Action, however, depends upon understanding; phenomenologists use that word to indicate a pre-reflective situating or orienting oneself within one's world. Reflection constitutes a sort of break in the everyday world; to use Heidegger's famous example, ordinarily when we use the hammer, it is inconspicuous and we use it unreflectively; it is only when

the hammer breaks that we are forced to think about it. (This, of course, is not the same level of abstract reflection as a philosophical meditation on the nature of hammers; it is a form of reflection still intimately tied to the pre-reflective, and which aims at repairing or replacing the hammer so effectively that one will no longer have to think about it.) It is also the case that there is a sort of 'low-level' reflection which constitutes an ill-thought philosophical theory of how humans operate. For example, many people in this age think about themselves as being a sort of computer, and this is reflected in our language ("I'd like your input on that"). Usually, these initial, immediate theories do not bear much examination. That is why phenomenology is necessary.

After all, if phenomenology does nothing but describe ordinary life, who needs it? Phenomenology is only necessary because our ordinary ways of understanding ordinary life (our 'low-level' theories as well as traditional philosophies) inaccurately describe ordinary life. Phenomenology, then, stands as a reflection upon the pre-reflective. Yet it remains self-consciously tied to the pre-reflective because it believes there is no possibility of escaping the pre-reflective. All theorizing, phenomenology thinks, is based in one's pre-reflective situation in the world. To hope to escape one's situation in order to achieve a universal or neutral view would be to hope to escape being human; the theoretical possibility of viewing all events at once, equally, and with fairness traditionally has been open only to God. Phenomenology maintains

that it is an empirical fact that humans cannot achieve it, and, more important, that our finitude is part of our constitution as humans. But we need not here attempt to convince anyone of this point; it will be enough for our purposes if the inevitable 'grounding' of ethics (and not all of reflection) in the pre-reflective has been accepted.[See On The Possibility of Religious Philosophy, Ann Geller (unpublished doctoral thesis, University of Toronto, 1983) for a particularly forceful presentation of this view.]

Methodologically, then, phenomenology is committed to beginning with the ordinary. It is the ordinary that gives us whatever certainty we have. But what about the extraordinary cases? What about the cases that have not been part of our ordinary world because they arise from new technologies (as do many of the text-book ethical dilemmas in medical ethics)? And what about the cases that have been with us for a long time, but for which we have no clear pre-reflective understanding?

Phenomenology is not going to be able to do much to help us solve the had. But the phenomenological study of ethics tells us that neither will traditional ethics. Phenomenology will instead try to answer the questions which it thinks can be answered, and will try to understand why those other questions cannot be answered and yet why they seem so urgent. Insofar as phenomenological ethics attempts to describe the ethical situation of any particular society, it will shade into philosophical anthropology and sociology. It does have its own distinctive aims, however. At its deepest, Phenomenological ethics will concern itself with the task of describing what it

means to be moral, i.e., to live in a world of value. With hard cases, phenomenology will try to show why those cases are so hard. What is it about the world that makes capital punishment such a controversial issue? What is it about our relation to our bodies that makes abortion such a tough question? This will not 'dissolve' the problems, or any form make them go away. It will not help us to answer them. It may help us understand the questions. The phenomenological approach has the advantage of not offering help when there is no help to be offered. In addition, the act of giving philosophic advice may change to become more of a sympathetic participating in the world towards which one has been turned. That is, philosophy's role in the moral realm may be not so much to point the way up the hill but to help shoulder the burden.

## III

The study of ethics is possible because humans are moral creatures. To say they are moral creatures is to say that they live in a world understood in moral terms. That is, we understand action in terms not only of cause and effect, but also in terms of the morality of the action. But it is not as if we understand only our actions in evaluative terms. Actions are understood within a world which is composed of value.

In short, I propose that we take the evaluation of actions in terms of morality to be one instance of a wider phenomenon: the valuing of all that presents itself to us in the world.

Phenomenology asks us to drop our theories and look to our experience. One of the first things we discover in such a case is that only in the most exceptional cases (if even then) do we come across things which have no meaning; to be present to us means to be present as this or that. This is one of Heidegger's main points in Sein und Zeit. But it seems just as clear to me that to be present also means to be present as something in some way valued (where disliking something, in addition to other "negatives", is a way of valuing it). Just as it is phenomenologically the case that we do not experience the "as-ness" of things as something we have added to them, but rather as something we discover, so too we do not experience the value of things as something we thrust on to things, but rather as something we see or find out about things.

Not all of these values are moral values, of course. Moral values are a certain sort of value. But by seeing them as part

of the broader phenomenon, we give expression to the relation of moral goodness and beauty, a relation I think many of us have felt exists. (The broad applications of the word 'good' gives weak evidence for the idea that the various sorts of evaluative schema are subsets of a general sense of valuation.)

I will first try to show how moral evaluations depend upon our involvement in a world of value. I then will try to show that we have an a priori reason for expecting the world to be a world of value.

It would be a mistake to think that moral evaluations must always be performed explicitly. Rather, the moral categories are present in every encounter; morality is an ever-present dimension of our life in the world. When we are standing on line in the cafeteria and see a stranger approaching us, our moral evaluation is apparent in our closing ranks against him: we view him as the possible perpetrator of an injustice. When we walk past the young man shovelling his car out of the snow, our moral evaluation of our obligations is apparent in our pace and in our ability frankly to gaze at him. If moral action necessarily involves at least one moral agent, it also necessarily occurs within a moral world of value.

It may be that there is some logically possible world which is devoid of values and in which moral activity still is possible. But in this world, our involvement with other agents is bound to their sharing a world with us. In the cafeteria, cutting in line is immoral act only because food is of value and the day is filled with events we are eager to encounter. In the street, passing by a stranger working at a car is moral (or

conscious is to be paying attention to something, if only to a daydream. (This is why any attempt to portray the mind as a mirror, computer, or theatrical stage, is misleading. A mind that only has images in its head is not yet a mind unless it is paying attention to some of those images and not to others.) But what does it mean to pay attention? Heidegger talks about this in terms of caring (Sorge), but I think it clearer to say instead that things matter to humans. But that is to say that things show themselves to us in terms of their value. Thus, it is part of the essence of humans that we live in a world of value, i.e., a world of things that matters to us. It is within this world that moral issues arise.

#### IV. Two Examples

Let us take some examples and see what we can do with them while remaining phenomenological. Let's take one that everyone agrees is a moral question that needs to be discussed, and one that only some people think needs discussion.

Not everyone thinks that the question of animal rights is a serious issue. Why not? Because it is clear to them that animals do not have rights. For a similar reason, we hear very little about 'tree rights' or 'brick rights'. How are we to resolve the question of whether or not animals have rights?

One way would be to investigate the source of rights. If we can figure out what gives X a right, if we can find the criteria by which rights are assigned, then we should be able to see whether or not animals meet those criteria. To proceed, we should examine a clear case of a right, see what grounds that right, and then see if we can extend that rule or principle to the case of animals. That is, we will start from the familiar, as is typical of ethics.

The argument over the grounding of rights, however, has been with us for a long time. It seems to me that it has not been resolved because it has been looking at the question from the point of view of rules and principles. The truly familiar cases of according things rights are so familiar that they are almost invisible. I accede to your right to physical integrity when I walk around you instead of shoving you on to the pavement. I accede to your right of free speech every time I disagree with you instead of trying to gag you. The problem with this talk of rights, however, is that it makes it sound as if I live my life by following certain rules. When we think about the problem of rights, we are likely to think of the extreme and unusual cases where rights have truly to be demanded: the right of self-determination of oppressed peoples, the right to emigrate from a tyranny. That is, we are most likely to think of rights when rights are denied. In those cases, the rights have to be demanded, and we may have to insist that the rule the right establishes must be obeyed. But in ordinary life, we grant people their rights without their having to demand them. Further, we grant them without having to follow a rule to do so.

(Perhaps a rule can be extracted from the situation, but that is a separate matter.) I grant you your rights by understanding that you are a fellow creature; we are joined in feeling; you have your rights and I have mine because we are together in the same world; we are joined in feeling.

Even in the extraordinary cases where rights have to be demanded, it is not simply a matter of showing that there is a rule which has to be followed, or that one has met the criteria entitling one to the rights. In fact, one must show (in the case of racism, for example) not merely that one meets all the requirements for being considered human, but that one in fact is human. That is, one must persuade one's oppressor that one is in fact within the common embrace of feeling; until that has occurred, the right has been established only in theory. The granting of rights is not a matter of proving one's case but of expanding one's oppressor's world, making it a more generous world.

Does this mean that rights can be established in theory as a rule, but only in practice through sympathy? No. How did you come to understand that you are entitled to that right? Was it through a rule that you stopped understanding yourself as a servant and saw yourself more truly as a slave? Far more likely you found yourself bound in feeling with others of your class, and felt your class excluded from the oppressor's world. If you came to understand your rights through argument, it is probably only because those arguments removed false theories, freeing you for experience. Rights, like moral principles, receive their

force through sympathy.

It is, then, not very promising to attempt to find the grounds of rights by looking for a rule, for rights are not granted according to rules. Humans are not computers and do not operate by algorithms. To say that X has rights is to admit X into the togetherness of feeling. One does not grant rights because one has admitted X into the togetherness of feeling, but rather, the two are identical.

One of the best arguments in favor of animal rights argues that animals have interests and thus have rights.[Tom Regan is an excellent proponent of this view.] This puts into philosophical language what is really a quite commonsensical point. What does it mean to have interests? It means that one cares about things. It means that the world matters to one. But why should this stop me from trampling all over you? It will only stop me if I have admitted you as a fellow suffering creature.

Notice I asked why should it stop me and answered instead what it would take to stop me. My point is, however, that the Should only gets its force-- a force which is distinctive of moral statements-- from my accepting you as a fellow sufferer. This accepting, this sympathy, is not itself a moral act. It is pre-moral; it allows moral decisions to be made. It certainly is not something I do on the basis of rules, criteria, or principles.

Do animals have rights? We could ask, philosophically, do they have interests. The answer is, of course, yes. (If you think otherwise, you must mean something else by interests.) But why do we need this philosophical question? We all know animals

are capable of suffering. Or, to be more precise, anyone who treats animals as if they were incapable of suffering is insane. The person who treats animals cruelly knows they can feel pain. The man who whips his puppy to teach it to not to urinate inside the house is relying upon that dog's ability to suffer. The ones who do not understand that animals can suffer are the ones who would not lean forward in their rocker to get off a dog's tail. They are few and insane. So why do we need the philosophical question of interests? Further, since there is such a thing as deliberate cruelty, apparently recognition of interests is not enough to guarantee 'humane'[I enclose this word in quotation marks in order to point out that it is 'speciesist'.] treatment.

Do animals have rights? That question should be answered by looking at how we treat animals in our everyday life. We do not step on cats when we can avoid it, we do not pull the legs off dying squirrels, we do not set bird nests on fire without good reason. We do this because we accept animals as fellow sufferers.

Then why are we not all vegetarians? If one discusses this issue with omnivores, philosophical or not, one is besieged by a slew of rationalizations. There are three sorts of responses to these rationalizations: 1) They are contradictory; 2) They are not sincerely held; 3) They fail in the face of the actuality of the sufferings of the animals we eat. In the face of the suffering one is given hollow principles; the principles are hollow because principles only have force when they try to prevent suffering or increase weal. Here they are presented in

the face of the actuality of the suffering; that is the only time one hears these principles. The philosopher's task will be, as always, to examine the principles with rigor to see if they contradict either themselves or other more dearly held principles. But I believe philosophers, people interested in the truth, need to do more in order to show the fly the way out of the bottle. We need to ask why the person is arguing so vigorously and saying that which he really should know is not true. (With surprising frequency I find myself being told that we can't prove that animals feel anything. That is true, given a strict enough understanding of proof, but do the people who say this really believe it is a matter of indifference whether one skins a dead deer or a live one?) Finally, we need to be able to turn with courage and conscience to the suffering itself. We need to visit the slaughterhouse, and to take our interlocutor with us. A chicken whose beak has been cut off and whose claws have grown into the mesh beneath it is the best philosophical argument for vegetarianism.

One is much more likely to be a monster by living one's life according to principles than by not.

Besides attempting to clear away the level of theory (a goal phenomenology shares with much Analytic philosophy) which obscures reflective access to one's everyday experience, phenomenology can also show us (i.e., make explicit) the place animals occupy in our world. One likely result of this will be to show that, once we leave aside theory, we do not understand this to be exclusively our world, but rather a world which we share with animals. But what if the place of animals in the

wolrd is inconsistent? Suppose we pamper some animals and eat their cousins? It will be the task of phenomenological ethics to bring this matter to our attention and to clear our vision of obscuring theories so that we can find our sympathy.

Further, phenomenology can ask why it is that the question of animal rights is important in our age. The answer is likely to tell us about the history of philosophy (at least starting with Descartes, the villain of every vegetarian's story), of religion, of culture, which led us to the present state. But we are also likely to hear about how we today construe (but not experience) the mind-body relation. What is the phenomenological difference between meat and flesh? Why do we so quickly assume that the ability to suffer is related to intelligence? (Why is it that when we have been tense our heads hurt instead of our arms, heart, or liver?)

In this first example, phenomenology has had something to say about resolving the question of animal rights (or, more exactly, the question of vegetarianism). There are dangers in this method, of course. One must worry about the role of phenomenology in a society so thoroughly racist that the despised race is not just thought to be, but is actually experience as, inferior. We will talk about this danger later. Here I will only state that traditional ethics also does not escape this danger. Let us, for balance, turn to a case where phenomenology provides no answer.

What is the right thing to do about abortion? With this we have found a question for which phenomenology will give no answer. (But why not? Can we know a priori that phenomenology can give no answer? Or should we remain open to the possibility that next week a phenomenologist will publish an article that will thoroughly and properly convince us?) But, too, traditional ethics has provided no convincing answer.

This is not to say that traditional ethics has been of no help in the question. Far from it. Traditional ethics has helped to clarify the terms of the debate and to rule out some responses. A phenomenological ethics will want to include traditional ethics' clear-headedness.

How can phenomenology proceed here? In the case of the killing of a fetus, we lack the sort of immediate moral sense that we have in the case of mistreatment of animals. Or, if we have an immediate moral sense, it contradicts the immediate moral sense of other reasonable people in our society. How can we decide whether or not to have sympathy for the fetus and to accept it as a fellow creature?

Phenomenology can help remove, in a way that traditional ethics cannot, two false ways of understanding the fetus, clearing the way for a more genuine understanding.

Let us pretend that there are only two sides to the abortion debate, and let me present simplified, extreme positions. On the one hand is the pro-life [I will use the labels the participants in the debate have chosen for themselves.] advocate who insists that the fetus is a person; killing an

innocent person is wrong. On the other hand is the pro-choice person who insists that the fetus is just a lump of tissue, and there is nothing wrong with removing it.

First, it should be obvious that there is agreement that human beings[Here 'human beings' is closer to ordinary speech than 'persons' would be. The following discussion gets away without maintaining the jargon of 'human being' vs. 'person.']] have the right to live; the disagreement is over whether or not the fetus is a human being. Second, and more important, it should also be apparent that both positions are phenomenologically wrong. 1) The fetus is not a lump of tissue. It is made of tissue, but to say it is essentially the same as a wart or a tumor is to say something phenomenologically false. There is something special about this particular lump of tissue: it can become a human being. To say it is only a lump of tissue is to engage in a reduction which denies too much; one might as well say that Simone de Beauvoir is only a lump of tissue. 2) The fetus is not a person. A person can do all sorts of things that a fetus cannot. A fetus isn't even a baby human. For example, babies do not take in nutrients through an umbilicus. A fertilized egg certainly is different from a human being. To insist that it really is human is to make one of the most obvious mistakes. Both of these false positions are ideologically motivated. The fetus is neither a human being nor a lump of tissue. It is instead a fetus. It is made of tissue, and someday it may become a human being, but it is not yet one. It is a potential human being.

But where does this get us?

On the one hand, one can argue that because the fetus is merely potential, it has no rights, for what is potential does not exist, and what does not exist can have no rights. On the other, one can argue that because the fetus is potentially human, it has the right to develop into a human. Both arguments are in fact made. The problem, then, is understanding the sort of potentiality of the fetus and then to consider whether any rights attach to that sort of potentiality.

It is important to notice that there are many different sorts of potentiality and that different rights may attach to the different sorts. For example, an unfertilized egg is a potential human (and phenomenologically seems to be potential in a way that a sperm is; perhaps it is just a result of a sexist culture that we do not talk of unfertilized sperm) in a different way than a fertilized egg is. At various stages of development, the sense of potential changes; a fetus that could survive outside of the mother is potentially human in a different way than a 3-week-old embryo is. The grandchildren a women's parents want to have (and which are the source, perhaps, of tension between the woman and her parents) are potential in another way. And if we learn how to clone humans from any cell in their body, every cell will become a potential person in yet another sense.

We thus are faced with two questions. In what way is the fetus potential? Once we have decided that question, we then must ask: What rights are due an entity potential in that way.

Phenomenological ethics may not be able to handle either question very satisfactorily. Yet it has made a contribution.

It is on phenomenological grounds that the two extreme positions I sketched above can be discarded. Neither of those two positions accurately reflects our most honest understanding of the nature of the fetus. It is not clear to me that traditional ethics is capable of discarding those two positions (except insofar as it covertly relies upon phenomenology).

It is also worth noting that phenomenological ethics has brought to the fore a question that does not always get discussed fully enough in the abortion controversy: what is the nature of potentiality?

Finally, before attempting to say something phenomenological about abortion, it should be observed that in bringing potentiality to the fore, phenomenological ethics is able to explain why the abortion question is so puzzling. Neither of the extreme positions has any heart for potentiality. Both are happy only viewing the fetus in terms of actuality: it is actually either a lump of tissue or a full human being. Why is potentiality such a foreign notion? Phenomenology will attempt to show that this escape from potentiality characterizes much of this age; how this has occurred can be understood by looking at the history of Western thought. Thus, the fact that abortion question confounds us can be shown to be a result not merely of something in the nature of abortion, but is a product of a broader historical temptation.

Unfortunately, this means that resolving the abortion question means resolving a broader issue. Thus, phenomenological ethics does not hold out the hope of an immediate and final answer to the question. Does Could imply Ought? fact Could does

imply Ought

What sort of advice will a phenomenologist give to someone who asks the question about abortion? She will be able to steer the advice-seeker from some wrong paths, but otherwise will have to do what humans do whenever they are asked for advice. She will attend to the person before her. She will not have recourse in general rules or principles; nor will she see this case as one instance of a more general problem. She will not treat it as an intellectual, cognitive problem but as a problem of feeling she shares with a fellow sufferer.

But philosophical ethics (traditional or not) has never been judged by its ability to generate advice. Which is just as well.

#### V. Risks

Clearly there are risks involved in phenomenological ethics. Just as clearly, phenomenological ethics has its limitations. But the risks and limitations are less than those of traditional ethics. In this section I want to discuss the risk and limitations, and try to anticipate some of the objections to a phenomenological ethics.

The chief risk may seem to be that by explicitly depending on the pre-reflective, phenomenological ethics gives up its authority to denounce the pre-reflective ethics of racists, sexists, and other sorts of bigots.

But phenomenological ethics will not refrain from denouncing immorality of any sort. The phenomenological ethician will

recognize, however, that his voice carries only the authority of another human. That other ethicists agree does not matter here; what counts is that the ethicist may have seen through some of the self-deception theories that blind the less reflective. He will refrain from pronouncing moral principles as a technique for reaching the bigot. Rather, he will recognize that it is not the bigot's mind that must be changed but the bigot's way of existing in the world. To accomplish this change, the phenomenological ethicist will do what people of good sense have always tried to do: they will try to bring the people the bigot despises slowly into the bigot's world. If the bigot hates Blacks, integrate his factory and let him watch television shows in which Blacks are treated with the dignity they deserve as humans. Most important, make sure the bigot's children go to integrated schools. The aim is to change the bigot's world so he then accepts Blacks as fellow sufferers. Punishment, scorn, and ethical arguments do not produce the sympathy which overcomes bigotry.

These techniques may seem lame and typically Liberal. Perhaps they are. If there are other techniques which will end bigotry, bring them forth and let us discuss them. But the techniques which work will be ones that recognize that bigotry is not a cognitive problem but is a way of being in the world which excludes a group from the sympathy due it.

Because we are not in the world primarily as knowers, habit (in Aristotle's sense) is important. We are in the world as creatures that behave. When a way of behaving becomes habitual, we mean it has gone from something we consciously consider to

something pre-reflective. Therefore, the phenomenological ethician will encourage us to develop the right habits.

We should note here that Aristotle's advice to develop virtue by finding a good man and modelling yourself on him holds for phenomenological ethics. We moderns want to know how we can tell who a good man is, but phenomenological ethics tells us that we all know pre-reflectively which of our friends (and which public figures) deserve emulation and which do not.

But surely, then, phenomenological ethics is relative to one's pre-reflective situation. This we shall discuss in our next section.

## VI. Relativism and the Prima Facie

It might be possible to confuse what I have said so far with relativism. By defending myself from this charge, it will also be possible to explain the distinction between phenomenological ethics and prima facie ethical judgments.

The difference between phenomenological and relativistic ethics is the same as the difference between phenomenology and all forms of phenomenalism. Phenomenalism notices that all we have are appearances. Dogmatic phenomenalism claims to know that there is no reality beyond the appearances; skeptical phenomenalism admits it does not know if there is reality beyond appearances. Both versions of phenomenalism hold to the metaphysical idea of reality which Heidegger's ontology attempts to show is a deep error. But for our limited purposes here it will suffice to point out that phenomenalism misdescribes appearances. As objects of knowledge appearances may be mere appearances (although I think they are not), but taken phenomenologically, they are our world, and our world presents itself as being something more than a mere appearance. What phenomenalism calls appearances are what we would normally point out as this chair, that desk, this soil, that bird. It is fine to point out that all these things are appearances in the sense that they show themselves to us, but one must not leave out of account the fact that they show themselves to us as being real and not as being mere appearances.

Similarly, relativism points to a truth about the way we live in our world, but misunderstands that truth.

But first we need to specify the sort of relativism we will be discussing. We are discussing relativism because it might be possible to confuse it with phenomenological ethics. Therefore, the sort of relativism at issue is the sort that seems closest to phenomenological ethics. This relativism will say: one's moral values depend upon one's culture; either there is no set of 'real' moral values (dogmatic version), or there may be a set of 'real' moral values but we cannot know them (skeptical version), but in any case we cannot appeal to those real values in cases of conflict; generally, the members of a community share moral values; moral values are not to be relied upon.

The analogy to the comparison with phenomenism lies in the idea that somehow there is lacking a moral reality behind moral appearances. Phenomenology, in a sense, agrees. But, it will reply, it would be a misdescription to say that all moral values present themselves as relative.

Of course that is the relativist's point: it is because moral values present themselves as non-relative that relativism needs to be stated explicitly.

The situation is complex. For some values do present themselves as relative. For example, whether who opens the door for whom is a gender-based decision is clearly a matter that could vary from culture to culture. Other values present themselves as stubbornly non-relative. For example, while we can recognize that slave-owning is relative in the sense that whether one believes in it has much to do with one's culture and history, we still may recognize it as trans-culturally morally repugnant.

But this description is not quite accurate. It is not quite true to say that the matter of who opens the door presents itself as relative. If I am in the habit of opening the door for all, regardless of gender, the relativism of that habit will not present itself as I open the door. It is far more likely to present itself in extraordinary circumstances: either when someone points it out to me, or when I am travelling in a foreign country. Further, it is possible that in extraordinary circumstances I might even be led to think it morally wrong, or intolerant, to assume that my culture's values-- even on matters such as slavery-- must be the absolutely right ones.

Nevertheless, relativism poses the problem falsely by looking for a missing ground (reality) of morality, just as phenomenism poses its problem falsely. Granted, there is no ground morally secure in the way that relativism would like. I can look at a regime I abhor and bring myself to doubt my own ability to make correct moral judgments. I can thus let a philosophical theory interfere with my confidence in my own judgments. And this is useful. But the fact that a theory can shake my confidence in my non-theoretical judgments does not mean that the way back to confidence is through theory. Rather, having for a moment wondered if my hatred of slavery is "merely" culturally relative, I can now open myself to sympathetic reflection. Recognizing that the slave-holders are "products" of their culture, I may moderate my hatred for them, and allow my sympathetic understanding to embrace their needs as well. I may even come to change some of my own values on the basis of the sympathetic understanding which the relativist's critique has

liberated.

Relativism views moral judgment in terms of knowledge, not in terms of sympathetic understanding. It is true that moral knowledge can be subverted by relativism, and that there is no higher, trans-cultural knowledge available to us. This is because we are rooted in our community and in our times. But moral knowledge is not at the heart of the moral life. Sympathy is.

It is this rootedness in a community which enables us to make prima facie moral judgments. And the philosophical attempt to understand those judgments has been similarly distorted by the failure to see what makes prima facie judgments possible.

The concept of prima facie judgments is very useful, but it does not work in quite the way as has been supposed. For example, lying is prima facie wrong, and we know this to be so because we need a special justification to lie, whereas telling the truth is prima facie right and we know this to be so because we do not need a special justification for telling the truth.

The concept of the prima facie attempts to capture what phenomenological ethics points to, but it does so by trying to ensnare the phenomenon in the net of principles. To say that lying is prima facie wrong is simply to say that we pre-reflectively understand that it is, in most circumstances, wrong. This insight-- that humans understand the world in moral terms-- has been made acceptable to philosophers by couching it in terms of the prima facie because the prima facie seem to be a species of principles, albeit not as inflexible as 'real' principles.

But in fact prima facie judgments are not based on principles; they are not a form of knowledge. Rather, they are the product of moral understanding presented in psuedo-principled form.

How else are we to explain prima facie judgments? They are not themselves the result of principles. Rather, they express the reluctance with which we perform some acts, and the eagerness with which we contemplate others. When circumstances permit or require us to perform an act which is prima facie wrong, we nevertheless perform the act gingerly. We recognize in such cases that extra care must be taken. For example, as \_\_\_\_\_ has suggested, although in war we are allowed to kill, the prima facie wrongness of killing acts as a restraint which gets formalized in the rules of war.[Article in Sterba's gen. moral anth.] What hangs over us, however, is not a principle. After all, within the realm of principles and knowledge, we are in the clear, for we are not contravening a principle, for we are not. Rather, we simply understand that the situation is complex: our sympathetic understanding tells us we must do what in normal circumstances we would not, and we are aware that even though in this case it is permitted, there are still unfortunate effects of our act. Thus, in war killing is permitted but restrained not because of a clash of principles but because our sympathy-- which normally forbids killing-- still tells us that killing is permitted but morally undesirable.

### VII. Giving Advice

What changes if we adopt a phenomenological ethics? We will still analyze issues and concepts. We will still argue with one another. But rather than seeing ethics as an attempt to solve problems we will see it instead as an attempt to understand the moral dimension of existence, i.e., the fact that we live in sympathy with fellow sufferers.

Oddly enough, however, despite no longer being centered on problems, phenomenological ethics I think revitalizes and integrates what to traditional ethics seems to be a mere interruption: the giving of advice to those who seek it from us. Although problems will not be the focus of our academic interests in ethics, there is no escaping them. They are brought forward by students and other members of the community who think we can help. These are, of course, real problems, problems a living individual is having with her or his life.

Why do people come to philosophers for advice on moral issues? The fact of the matter is that generally they do not. This is just as well given what I have argued is the true nature of philosophical ethics. If philosophical ethics had special access to some set of principles or rules, then perhaps we could give advice. Failing that, we can give no advice. But that does not mean that we do not give something.

There are these days philosophers who are hired to give advice. In particular, hospitals have found philosophers useful. But the advice they give (according to the journalistic accounts I have read) does not consist of a series of principles which are

then applied. They seem to serve two purposes, each very valuable. First, they use their logical skills to help clarify the issues. Second, they try to widen the sympathetic world of the people involved: the doctors are to be sure to consider the patients as fellow sufferers, the patients likewise are to understand the doctors as suffering in their own way.

There is a third function of advice as well, which I have no doubt the successful philosophers in hospitals fulfill also: the sympathetic world must be opened up to include the person giving the advice. This seems to me to be an equally important part of the process of giving advice. It may not result in a change in the future behavior of the advice-seeker, but it affirms an important possibility which we, as philosophers, should want affirmed and thus maintained: the possibility of remaining thoughtful even while in the depths of one's suffering.

Let's say a student has come to us for advice. This means he is suffering. We are flattered that he chose us, but the compliment turns sour when it turns out he is expecting an easy answer ("There are no easy answers to questions like these ..."). The problem is that he thinks we know the Principles of Right Life and can help apply them in his case.

He may even think about his problem in terms of principles. But if he holds to a principle which conflicts either with a deep desire or another principle, if he is holding to the principle for some undiscussable reason-- revelation, pig-headedness-- there is nothing we can do for him except perhaps try to release him from the grip of the principle. If, as is far more likely,

he holds to the principle not for its own sake but because it has become the sign of some other virtue (his chastity is a sign of moral purity, his unwillingness to go through hazing is a sign of his dignity and seriousness), then we need to translate the principle into what it stands for. Now we have dispensed with principles and the student's problem begins to look more like the usual sort of conflict of desires. In either case, most times if the request for advice begins with a discussion of principles, it cannot remain there and be helpful.

So what can we do for a student who comes to us for advice? We can help clarify the issues. Maybe once they are clear, the conflict will vanish or be easily resolvable. But such cases are rare, and even more rarely are they serious or deep problems.

More important, we can let him try on different solutions and help him to see how they suit him. What would it be like to live in the world as a hard-hearted lout who doesn't care about how others feel? What would it be like to live in the world as someone considered to be a coward? What would it be like to live in the world as someone who deserted his mother to fulfill his patriotic duty? It may be easier to do this in the presence of someone he doesn't know too well, just as it may be easier to undress in front of strangers in a changing room than in front of acquaintances. An important part of giving advice is to respond truthfully but gently when the student asks, metaphorically, "How do you like this on me? Does it suit?"

But we are not just an occasion for this sort of projection. Neither are we there merely to comiserate and agree that the world can be hard. Friends do that better than advisors do.

Part of our part in the drama of advice is to allow ourselves to be saddened by the world which has saddened the advice-seeker, but to do so in a special way. By sharing the burden-- the sadness, the anger, the frustration-- and yet remaining thoughtful, we show that it remains possible to remain attached to the world of value and also to be able to consider it from beyond the clamor of our passions.

For the fact is that, as is obvious, human sympathy has no natural extent. We can be educated to have our sympathies stop short at any particular shade of skin. Just as the hospital philosophers can help enlarge the sympathetic world of the advice-seekers, so we all can help do that as well. But we also begin to heal the wound, the alienation, caused by belief in principles if we share the suffering and yet remain the thoughtful person who first commanded the respect of the suffering student.

And when there is no good advice? What of cases in which there is no simple solution, but also in which no response suits the student? When all avenues are closed and we can think of no other possibilities? Then we feel the pain and with reluctance remind the student that the world is unfair enough to contain problems with no solutions. Most important we let the student know that we have let the suffering touch us too. For some reason I cannot fathom, it is easier for us to bear our own suffering if others bear it as well. It is not a physical weight which really is lighter the more hands help lift it. Yet knowing that others care makes life easier.

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We say, "Let me know if there's anything I can do to help. And let me know how it turns out, ok?" If advice means solutions, we may have given no advice. But if it means helping to get through a problem, then we have given the best advice we can.

If principled philosophy worked well, then philosophy ought to do well at giving advice, the sort of advice that solves problems. But we are not asked. We cannot give the sort of certainty that principled philosophy ought to yield. And if we could, we would do it with only the fastest reference to the particularities of the case, for the point about principles is that they are general.

But phenomenological ethics is not so interested in knowing the world. Rather, we want to understand it, and live in it properly. Phenomenological ethics does not promise to lift us above the world so that we might pronounce the dicta by which it ought to move. It does not offer the hope of reforming oneself according to a new blueprint. Instead, it brings the chance to weep more often and rejoice more profoundly in a hard world in which action often fails and only sympathy remains.