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Rights and Virtues

Abstract: It is first shown that, contrary to MacIntyre, human rights are not 'fictions'. I then summarize my own argument for human rights, and reply to MacIntyre's objections. Turning to his own positive doctrine, I indicate that it is confronted with 'the problem of moral indeterminacy', in that it allows or provides for outcomes which are mutually opposed to one another so far as concerns their moral status. I then take up MacIntyre's triadic account of the virtues and show that each phase - practice, narrative order of a single life, and moral tradition - is morally indeterminate, as are also his accounts of the morality of law and the virtue of justice. My conclusion is that moral virtues must be based on human rights if the virtues are to have morally justified contents.

Is the concept of human rights central to morality, as many modern thinkers have held? Or is it, rather, a piece of nonsense and a sinister cover for egoism, anarchy, or vested interests, as Bentham and Marx variously maintained? (Bentham 1973, 261, 268 ff; Marx 1978, 43). In his recent book, After Virtue (AV), Alasdair McIntyre has forcefully reiterated a version of the latter view and has argued that, far from being centered around rights, moral philosophy should be focused instead on a concept of the virtues whose lineage he traces back to Aristotle. In view of the importance of the issues, I have thought it worthwhile to examine MacIntyre's theses with some care. It is a subsidiary consideration that he builds part of his negative case on specific criticisms of my own argument for the centrality of human rights, as presented in Reason and Morality (Gewirth 1978 - in the following RM).

1. Are Human Rights Fictions?

According to MacIntyre, human rights are 'fictions': "there are no such rights, and belief in them is one with belief in witches and in unicorns." (AV 67) All such alleged entities are infected with the same disability: "The best reason for asserting so bluntly that there are no such rights is indeed of precisely the same type as the best reason which we possess

for asserting that there are no witches and the best reason which we possess for asserting that there are no unicorns: every attempt to give good reasons for believing that there <u>are</u> such rights has failed." (AV 67)

Now even if MacIntyre's last statement, about the failure of "every attempt to give good reasons", were true, this would not serve to ground his assimilation of the ontological status of human rights to the ontological status of witches and unicorns. It is not only that rights are normative entities whose existence must be primarily established by normative justificatory argument, unlike the purported physical existence of witches and unicorns. The more salient point bears on the availability of empirical instantiation or confirmation in each case. In the cases of witches and unicorns, there is no way of providing empirical correlates for statements of their existence: no empirical attempt to establish that there are such entities has been or can be successful. In the case of human rights, on the other hand, despite their normative character, it <u>is</u> possible to provide empirical correlates for their existence, where 'existence' has the secondary meaning of social recognition and legal enforcement. When we point to certain murderous and other oppressive phenomena in Nazi Germany, the Soviet Union, Chile, and elsewhere, we are not referring to fictions but rather to empirical phenomena that are undeniably violations of human rights. Similarly, when we point to areas of the United States and other countries where certain basic freedoms and phases of well-being are protected for all persons regardless of race, religion, and so forth, we are referring to phenomena that embody the empirical existence of human rights, in the sense that they are socially recognized and legally enforced.

To be sure, such reference is not completely uncontroversial, since it may be held that the phenomena in question can be elucidated as other than protections of human rights; for example, utilitarian or other accounts may be offered. I think such attempts can be shown to be unsuccessful. But, in any case, phenomena like the ones I have mentioned <u>can</u> be elucidated in terms of human rights, so that the rights <u>can</u> be given empirical correlates. For this reason, human rights have a quite different ontological status from that of witches and unicorns: the former are not 'fictions' in any way comparable to the fictional character of the latter. Hence, MacIntyre is mistaken when he says that the reasons for asserting the fictional character of human rights are "of precisely the same type" as in the case of witches and unicorns.

It might be objected that on my implicit criterion of an 'empirical correlate', the devil might also be proved not to be a fiction. For the palpable evil in the world might be adduced as the 'empirical correlate' of the devil's existence.

This analogy, however, does not refute my argument for the non-fictional status of human rights. For, unlike the case of the devil, my argument does not rely for its 'empirical correlate' on a causal hypothesis which goes beyond the empirical evidence. The empirical phenomena I mentioned as, respectively, violations and fulfillments of human rights are not held to be _effects_ of the existence of human rights; they are, rather, what is _meant_, respectively, by the social non-existence and existence of such rights. Hence, in adducing such phenomena I was able to show that human rights have empirical correlates without having to rely on a hypothesis about a cause whose own existence cannot be empirically instantiated.

If it is objected further that, for the diabolist, the empirical phenomena of evil likewise constitute what is _meant_ by the existence of the devil, there still remains a difference parallel to the one I have just indicated. To interpret the phenomena of evil as the diabolist does is to appeal to a concept, that of the devil, which cannot _of itself_ be empirically instantiated, because it goes beyond any available empirical evidence. The social-recognition concept of human rights, on the other hand, does not have this disability, nor does its relation to the normative concept of human rights. If one admits that evil itself may be empirically instantiated despite its admittedly evaluative quality, then such instantiation must also be granted to moral rights.

2. The Argument for Human Rights

Let us now consider directly MacIntyre's assertion that "every attempt to give good reasons for believing that there _are_ such (human) rights has failed" (AV 67). This is a very sweeping statement, and it is not accompanied by the extensive historical evidence that would be needed to give it adequate support. The only argument for human rights that MacIntyre discusses is my own, and then only in part. It will hence be helpful if I briefly indicate certain aspects of my argument's method and contents.

In my argument I use what I call a _dialectically necessary method_. The method is _dialectical_ in that it begins from statements made or accepted by an agent and it examines what they logically imply. The method is dialectically _necessary_ in that the statements logically must be made or accepted by every agent because they derive from the generic features of purposive action.

My reasons for using this method are twofold. On its _dialectical_ side, to present the statements as being made by an agent rather than as straightforwardly assertoric serves to avoid certain difficulties of ethical naturalism, including the logical derivation of value judgments from factual state-

ments (RM 159-61; for further discussion of the need for the dialectical side of the method, see Gewirth 1982a, 22-24, 48-50, and Gewirth 1982b, especially 407 ff.). On its necessary side, the method operates to achieve categoricalness for moral jugdments. The initial consideration here is that morality is often the scene of severe disagreements, with claims and counter-claims each of which is upheld as sound by its exponents. In order to ascertain what is rationally justified in this whole area, recourse must be had to facts and propositions that no agent can rationally reject because they are logically involved in the context of action itself. If there are such facts and propositions, and if they can be shown to entail a moral principle, then the previous moral dissensus can be brought to a rationally grounded conclusion. In this way, through the restrictions imposed by the dialectically necessary method, the moral principle can be established as categorical in that it sets forth requirements for action that are normatively necessary, because they cannot be rightly evaded by any prospective agent regardless of his variable inclinations, ideals, or beliefs (RM 47, 97, 169-70; on this point see also Gewirth 1982a, 24-26).

Using this method, I have argued for two main theses. The first is that every agent logically must claim or accept that he has rights to freedom and well-being because they are the necessary conditions of his action and successful action in general. The second thesis is that each agent logically must admit that all other agents have the same rights he claims for himself, so that in this way the existence of universal and equal moral rights, and hence of human rights, must be accepted within the whole context of action or practice. From these two theses, there follows a supreme moral principle that every agent logically must accept. I call it the Principle of Generic Consistency (PGC), and its main precept, addressed to every actual or prospective agent, is: Act in accord with the generic rights of your recipients as well as of yourself.

From these theses it can be seen why I hold that the concept of human rights is central to moral philosophy. For human rights are personally oriented, normatively necessary moral requirements, in at least two senses of 'requirement': they are justified demands for or claims to certain kinds of guaranteed conduct on the part of other persons, and their objects, what they are rights to, are the necessary conditions of action and successful action in general as having to be equally possessed by every actual or prospective agent. In Reason and Morality I have discussed in detail the contents of these conditions and in what ways they are necessary for action (RM 52-63; see also my 1982a, 7-9).

Now all moralities, amid their varying contents, deal directly or indirectly with how persons ought to act toward one another. Hence, human rights are concerned with guaranteeing the conditions that make action and successful action equally possible for every actual or prospective agent,

including the actions prescribed by moral principles. The ultimate purpose of the rights is to secure for each person a certain fundamental moral status: that of having rational autonomy and dignity in the sense of being a self-controlling, self-developing agent who can relate to other persons on a basis of mutual respect and cooperation, in contrast to being a dependent, passive recipient of the agency of others.

From this it follows that all other moral concepts are derivative from human rights. Moral duties exist for the sake of the rights. Moral virtues, whatever their contents, are dispositions to action, and hence presuppose the necessary conditions of action which are the objects of human rights; moreover, the justified contents of the virtues must involve at least the non-violation of human rights, and the most important moral virtues are dispositions to act for the promotion of human rights. Goods are, of course, more general than human rights; but no goods, however defined or delineated, can be morally justified if they violate human rights.

Of my two main theses mentioned above, I shall here give a brief summary of my argument only for the first: that every agent logically must claim or accept that he has rights to freedom and well-being. For it is this argument that MacIntyre singles out for criticism.

Reduced to its barest essentials, the argument is as follows. Since freedom and well-being are the necessary conditions of action and successful action in general, no agent can act to achieve any of his purposes without having these conditions. Hence, every agent has to accept (1) "I must have freedom and well-being". This "must" is practical-prescriptive in that it signifies the agent's advocacy of his having what he needs in order to act. Now by virtue of accepting (1), he also has to accept (2) "I have rights to freedom and well-being". For if he denies (2), then, because of the correlativity of claim-rights and strict 'oughts', he also has to deny (3) "All other persons ought at least to refrain from removing or interfering with my freedom and well-being." By denying (3), he has to accept (4) "Other persons may (i.e. it is permissible that other persons) remove or interfere with my freedom and well-being." And by accepting (4), he has to accept (5) "I may not (i.e. it is permissible that I not) have freedom and well-being." But (5) contradicts (1). Since every agent must accept (1), he must reject (5). And since (5) follows from the denial of (2), every agent must reject that denial, so that he must accept (2), "I have rights to freedom and well-being." I call them generic rights, because they are rights to the generic features of action and successful action in general.

Thus the argument for the first main thesis has established that every agent, on pain of self-contradiction, must hold or accept that he has rights to freedom and well-being. The argument has been based on the

point that if any agent denies that he has these rights, then he is in the position of holding that he need not have what, as an agent, he has to hold that he must have. For reasons of space, I shall omit my argument for the second main thesis, which says that every agent must admit that the rights he claims for himself are also had by all other prospective agents. The upshot of this latter argument is that the existence of human rights logically must be granted by every agent, and with it the PGC.

3. MacIntyre's Objections

MacIntyre raises three objections against my argument for the first main thesis. His first objection bears on the transition from (1) "I must have freedom and well-being" to (2) "I have rights to freedom and well-being". MacIntyre does not refer to my specific argument for this transition, as given in steps (3), (4), and (5) above. Instead, he focuses on what he takes to be a crucial difference between (1) and (2):

"It is first of all clear that the claim that I have a right to something is a quite different type of claim from the claim that I need or want or will be benefited by something. From the first - if it is the only relevant consideration - it follows that others ought not to interfere with my attempts to do or have whatever it is, whether it is for my own good or not. From the second it does not. And it makes no difference what kind of good or benefit is at issue." (AV 64-65)

MacIntyre here overlooks the dialectically necessary character of my argument. Where I have rendered the antecedent as (1) "I must have freedom and well-being", MacIntyre presents it as "the claim that I need or want or will be benefited by something". Now from such a general "claim" to "something", it indeed does not follow either that one has a right to that something or that one must claim a right to it. But the antecedent of my argument is presented as a truly necessary statement, in that the agent holds that, in order to act, he must have the necessary conditions of his action.

The dialectically necessary method requires that the argument be confined to such rational necessities. Thus the 'must' in (1) is not the same as if someone were to say that he must have a ten-speed bicycle or some woman's love. Persons do, of course, desire many particular things, and they may even feel that they must have some of these. But there is a difference between a 'must' that is concerned with objects that are, strictly speaking, dispensable, and a 'must' whose objects are the truly necessary conditions of action. The latter objects, unlike the former, have an ineluctableness within the context of action that reflects the rational ne-

cessity to which, in keeping with the dialectically necessary method, the argument must be confined (RM 77-78, 81-82).

From the agent's holding that he must have the necessary conditions of his action, it does indeed follow that he holds that "others ought not to interfere with" his having these conditions, for the reasons given in my above argument. If the agent denies this 'ought'-judgment, then he has to accept that it is permissible for other persons to remove or interfere with his having freedom and well-being. And from this it would follow that he accepts that he may not - it is permissible that he not - have freedom and well-being. But this would contradict his initial statement (1) "I must have freedom and well-being." Hence, on the basis of his having to accept this 'must'-statement, each agent, on pain of self-contradiction, must accept the 'ought'-judgment, and thus the right-claim, with which MacIntyre has said the agent may dispense.

MacIntyre's second objection is that right-claims cannot derive simply from claims about agency-needs because right-claims "presuppose", as claims about agency-needs do not, "the existence of a socially established set of rules ... the existence of particular types of social institution or practice is a necessary condition for the notion of a claim to the possession of a right being an intelligible type of human performance" (AV 65).

MacIntyre does not note that I have raised this very objection against myself; a fortiori he does not note my reply. I raised the objection in several steps, as follows:

"First, in order to be a right-claim the demand must purport to be valid ... Second, this entitlement must be based on rules... Third, rights-talk and rights-claims presuppose the existence of a community to which the talk or claims are addressed and which understands and recognizes such talk and the common rules that provide the justification or legitimacy of the rights ... Fourth, the community addressed by right-claims must be a legal and political one. For when rights are claimed to objects as general and central as freedom and well-being, the claimants advocate that they be incorporated in a legal system so that they can be sufficiently protected. Hence, ... unless the agent recognized the existence and legitimacy of some government to whom to address his right-claims, he would not make any such claims." (RM 72)

My reply to this compound objection is that the agent's right-claim, precisely because it is based on his own agency-needs, is logically prior to and independent of a community or social rules, except in a certain minimal sense. Insofar as the agent's right-claim is addressed to other persons, it is assumed that they can understand his claim and can comply with it. But this understanding and ability do not involve any more specific social rules or institutions that would incorporate or sanction the agent's right-claims.

The relation is rather the reverse. Right-claims are at least sometimes demands that certain social rules or institutions be established, as when slaves revolt against their masters, or in other revolutionary situations. Hence, it is unduly conservative to insist that right-claims must always presuppose social rules or institutions which already exist. This is especially the case when the issue, as here, concerns rights to the necessary conditions of agency itself. These rights and the claims to them have a prior status because it is for their sake that the most important social rules should exist. Thus, from the agent's standpoint, a community will be legitimate only if it recognizes his rights. Hence, far from rights presupposing a community which recognizes them, the relation is rather that a legitimate community presupposes the claiming and respecting of rights (RM 74-75).

MacIntyre's third objection is that right-claims are not "universal features of the human condition", as my theory assumes. Instead, right-claims (together with their presupposed social rules) "only come into existence at particular historical periods under particular social circumstances ... (They) have not existed universally in human societies." (AV 65) As evidence for this, MacIntyre asserts that "there is no expression in any ancient or medieval language correctly translated by our expression 'a right' until near the close of the middle ages" (AV 67). He recognizes that I have said that the <u>concept</u> of a right may be present even when the <u>expression</u> is not used (RM 99); but he declares that without an expression for human rights "no one could have known that there were" such rights (AV 67).

This last point, however, does not follow. If persons have the <u>concept</u> of human rights, then they can know that such rights normatively exist even though they lack some single <u>expression</u> for them. Moreover, MacIntyre has not taken account of my extensive distinctions bearing on the various ways in which persons or groups do or may use the concept of rights (RM 98-99). Nor has he even tried to counter the extensive historical evidence I have cited from ancient Greece, Rome, and the middle ages, as well as from anthropological reports about non-Western societies, in all of which the concept of rights is shown to be used (RM 100-101 and 372-73, notes 19-26).

The historical universality of the concept of rights follows directly from the universality of human action. That the generic features of action - voluntariness and purposiveness - have been uniform in all eras is shown by such facts as that Aristotle's analysis of voluntary action (Nicomachean Ethics III. 1-5) is just as relevant and true for modern and contemporary agency as it was for the agency of his own time. And the generic right-claims that I have said every agent must uphold for himself "are demands on the part of agents that the essential prerequisites of their actions at

least not be interfered with" (RM 77). "Right-claims are thus essentially linked to action", because of the conativeness that characterizes all action (see also RM 78-82). In my argument for my first main thesis presented above, I have shown why each agent's advocacy of his having the necessary conditions of action logically commits him to claiming or at least accepting that he has rights to these conditions.

It is important to be clear about the sense in which I say that every agent must "claim" or "accept" that he and all other agents have the generic rights. This sense is not necessarily an empirically or phenomenologically descriptive one: it does not necessarily refer to the conscious thought-processes or explicit utterances of agents. It signifies rather what agents are logically committed to hold or accept insofar as they are rational in the sense of being able to follow out the implications of the concepts of action and agent, and hence of their own activity as such. Denials of any of these implications are thus failures of rationality, which are themselves often the effects of unjust social institutions. The rationality here in question, however, is a minimal one, of which all normal agents are capable (RM 46).

At the same time, however, there are phenomenological correlates for the results of such rational analysis, as is indicated by the evidence for the historical universality of the concept of rights (RM 98-102). The fact that some agents have not exercised their rational powers in this context does not establish either that the propositions in question are not rationally justified or that the agents did not possess the requisite rational powers.

MacIntyre's three objections against my argument for human rights, then, are not successful. To this extent, at least, he is mistaken when he says that "every attempt to give good reasons for believing that there are such rights has failed" (AV 67).

4. The "Incommensurability" Argument

MacIntyre has another, more general argument for this thesis of the in-evitable failure of attempts to prove the existence of human rights. This is the argument from what he calls "incommensurability" or "mutual in-compatibility". This argument is given three different spheres of application.

In its first application, MacIntyre lists four "analytical moral philosophers" besides me (Hare, Rawls, Donagan, and Gert), and he says that "such writers cannot agree among themselves either on what the character of moral rationality is or on the substance of the morality which is to be founded on that rationality" (AV 20). Even if there is such disagreement,

however, it does not prove that human rights cannot be given a rational justification. MacIntyre himself would not accept the parallel contention that the fact of widespread disagreement among philosophers over the nature and content of the virtues proves that rational justification is not possible in this sphere. The relevant consideration is not a search for unanimity but rather a careful examination of specific arguments.

Moreover, MacIntyre overlooks the large measure of agreement among the philosophers he mentions. This can be especially seen if they are contrasted with a philosopher like Nietzsche. All these writers agree that considerations of consistency, impartiality, and mutuality of consideration are vital components of moral rationality; and all uphold substantive moral positions that stress certain basic -equalities of treatment among human beings. There are indeed differences among these philosophers; but by emphasizing only the differences and ignoring the important points of agreement, MacIntyre gives a misleading impression.

Second, MacIntyre says that claims invoking rights are in conflict with appeals to utility, and "there is no rational way of deciding which type of claim is to be given priority" (AV 68). But he does not advert at all to the extensive work that has been done on this subject. I shall confine myself here to my own argument, already mentioned above, for the thesis that human rights must be given priority over all other moral considerations.

Two points must be especially noted. First, since the objects of human rights are the necessary conditions of action and successful action in general, no actual or prospective agent can disavow the central importance of human rights. 'Utilities', on the other hand, do not have this primary status, for on at least on widely accepted view, they comprise any objects of preference indiscriminately. Hence, any attempt to act for the attainment of utilities must presuppose the objects of the human rights, while, on the other hand, many utilities do not have this indispensability for agents. Second, the principle of human rights, which I have called the Principle of Generic Consistency (PGC), has a rigorously rational justification, in that any attempt to violate or deny the principle involves the agent in self-contradiction (RM 133 ff.). The principle of utility, on the other hand, is capable of no such justification; moreover, notorious fallacies are incurred by attempts to justify the principle through an appeal to each individual's desire for his own happiness.

The PGC's rational justification, moreover, incorporates the primary distributive element that utilitarianism lacks. The justification proceeds by showing that each prospective agent logically must acknowledge that all other prospective agents have he same generic rights he claims for himself. The aggregative emphasis of utilitarianism, on the other hand, may

operate to submerge the individual's rights by an appeal to the maximizing of utility.

MacIntyre is mistaken, then, when he says that "there is no rational way of deciding" between human rights and appeals to utility.

He also presents a third application of his incommensurability argument. He says that "basic controversies" over justice "cannot be rationally resolved" (AV 227), and he cites the familiar disagreement between John Rawls and Robert Nozick (Rawls 1971; Nozick 1974) with their rival criteria of need and entitlement. Here, however, MacIntyre overlooks how this conflict can be resolved by an appeal to central features of the human rights doctrine itself. I refer especially to the criterion for resolving conflicts of rights which I have called "degrees of necessity for action" (RM 343-44, 346-49). In cases of conflict, one right takes precedence over another when the object of the former right is more necessary for action than is the object of the latter right. This is why, for example, one person's right not to be lied to is overridden by another person's right not to be murdered when the two rights conflict. Thus, the basic needs emphasized in part by Rawls must take precedence over the property rights emphasized by Nozick when there is conflict between them. This criterion does not involve the wholesale overriding of property rights, nor does it require full acceptance of Rawls's "difference principle". But the criterion does provide that when, for example, basic needs of food, housing, and clothing cannot be fulfilled by certain persons or groups, taxation of other persons to fulfill these needs is justified. So MacIntyre is mistaken when he says that the principle of human rights cannot rationally resolve such conflicts.

This criterion of the degrees of necessity for action is not arbitrary; it is derived from the PGC with its basis in the necessary conditions of action. Since human rights arise from the need that every agent has for these conditions, it follows that, in cases of conflict, one right takes precedence over another if its object is more necessary for action. And, as I have argued, no agent can rationally refuse to accept the PGC.

5. The Problem of Moral Indeterminacy

I turn now to a consideration of MacIntyre's own positive doctrine. Having rejected a morality of rights and duties, he upholds instead a morality of the virtues. In his scheme "the virtues have the central place" (AV 239).

This centrality of the virtues is a reversal of a traditional conception of the relation between moral virtues and moral rules. In this conception, moral virtues derive their contents from the requirements set by moral

rules: to have a moral virtue is to be disposed to act as moral rules
direct. Thus, moral virtues "are deep-seated traits of character whereby
persons not only do what is morally right in the sense of obligatory but do
it habitually, with knowledge that it is right and because it is right" (RM
332). I have held that the criterion of this moral rightness is ultimately
the PGC, and proximately the moral rules justified by the PGC.

MacIntyre opposes this whole conception. In keeping with his rejection of
the concept of moral rights and their correlative duties, he also down-
grades the moral rules which prescribe how each person is to act in order
to fulfill or at least not violate other persons' rights. In his depiction of
the "stance characteristic not just of liberalism but of modernity" (AV
112), which he opposes, he writes: "Rules become the primary concept of
the moral life. Qualities of character then generally become prized only
because they will lead us to follow the right set of rules." (AV 112) Since,
however, MacIntyre holds that the justification of rules and principles is
"radically problematic", he proposes the reverse order: "we need to attend
to virtues in the first place in order to understand the function and
authority of rules" (AV 112).

But what, then, is the criterion for a quality's being a virtue? On this
basic criteriological question, MacIntyre's doctrine is confronted by a
crucial difficulty - a difficulty that besets any conception which, like his,
does not base the virtues on moral rules for action. This difficulty is
moral indeterminacy. A quality, rule, or judgment is morally indeterminate
when its content allows or provides for outcomes which are mutually
opposed to one another so far as concerns their moral status. Thus the
content in question may be morally wrong as well as morally right. Applied
specifically to the virtues, the difficulty of moral indeterminacy is the
following. When the criterion for a quality's being a virtue does not in-
clude the requirement that the virtue reflect or conform to moral rules,
there is no assurance that the alleged virtue will be morally right or
valid.

A vital question for MacIntyre's account of the virtues, then, is whether it
succumbs to such moral indeterminacy. A related way of putting this
question is: Does he succeed in delineating the concept of a moral virtue?
MacIntyre himself uses the word 'moral' throughout his book, but he
never provides any explicit definition of it. The sense in which I have
just referred to 'moral virtue' is normative: it contrasts with 'immoral',
not with 'non-moral'. In this sense, for a quality, action, or rule to be a
moral one, it must at least refrain from violating (or authorizing the
violation of) basic rights of persons. Thus a quality or an action is not
moral, in this sense, if it permits or provides for the enslavement or
killing of innocent persons, or other comparable harm to their basic needs
or interests.

The question for MacIntyre's elaborate account of the virtues, then, is whether the qualities that emerge as virtues from his account satisfy this basic, elemental condition of being moral, i.e. morally right or valid. I shall now examine whether and how his account is able to deal with this question.

6. MacIntyre's Account of the Virtues

MacIntyre's account of the virtues is presented in a complex triadic formulation. He says that "the necessary background against which the concept of a virtue has to be made intelligible" involves "no less than three stages in the logical development of the concept which have to be identified in order, if the core conception of a virtue is to be understood" (AV 174). These three stages consist in accounts, first, of "a practice", second, of "the narrative order of a single human life", and third, of "what constitutes a moral tradition" (AV 174).

The first stage, then, connects virtues with practices. Although MacIntyre says that virtues may be exercised outside of practices, he asserts that practices provide "the arena in which the virtues are exhibited and in terms of which they are to receive their primary, if incomplete, definition" (AV 175). He 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 realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended" (AV 175).

This long definition uses such undefined terms as "goods" and "excellence". As examples of "practices" MacIntyre gives football, chess, architecture, farming, scientific and historical inquiries, painting, and music. But how about the activities of the Ku Klux Klan and the Nazi Party? Wouldn't these also satisfy his definition of a 'practice'? Subsequently, despite his use of words like "goods" and "excellence" in his definition, MacIntyre acknowledges, somewhat reluctantly, that "there may be practices - in the sense in which I use the concept - which simply are evil" (AV 186). His own examples are torture and sado-masochistic sexual activities.

These admissions indicate that the definition of virtues in terms of practices fails to avoid moral indeterminacy, because of the possible lapses of practices from moral rightness. We must now examine whether this deficiency is remedied by his account of the two remaining "stages" in his definition of a virtue.

MacIntyre conceives his second stage as a "quest" for "a telos which transcends the limited goods of practice by constituting the good of a whole human life, the good of a human life conceived as a unity" (AV 189). He derives his initial idea of a "telos" from Aristotle's "metaphysical biology", according to which "human beings, like the members of all other species, have a specific nature; and that nature is such that they have certain aims and goals, such that they move by nature towards a specific telos. The good is defined in terms of their specific characteristics." (AV 139) I have shown elsewhere why this biological naturalism is quite inadequate as an interpretation of Aristotle's ethical teleology (see Gewirth 1984 and Gewirth 1974, 983-4). But in any case, MacIntyre rejects Aristotle's metaphysical biology. The view of the human telos which MacIntyre himself presents seems to conceive it not in substantive terms, as having a definite sort of content, but rather in procedural terms, as involving a certain sort of "quest". A quest for what? For "the good". Thus in this second stage, the virtues "are to be understood as those dispositions which will ... sustain us in the relevant kind of quest for the good, by enabling us to overcome the harms, dangers, temptations and distractions which we encounter, and which will furnish us with increasing self-knowledge and increasing knowledge of the good" (AV 204).

Here again, however, the content of "the good" is left unspecified; indeed, MacIntyre stresses that it is not "a search for something already adequately characterized" (AV 204). But then why would not a Hitler or a Stalin fit this second stage? Each had his own conception of the good; each regarded himself as having "increasing knowledge of the good" as his career unfolded; and each exhibited the virtues of "integrity and constancy" in his unflagging quest for achieving what he conceived to be his telos - at least insofar as MacIntyre conceives these virtues as involving "singleness of purpose in a whole life" (AV 189). Thus his second stage also fails to surmount the difficulty of moral indeterminacy.

It might be thought that this difficulty is finally overcome in MacIntyre's third stage. For he here emphasizes the social, communal context of human life: "we all approach our own circumstances as bearers of a particular social identity." (AV 204) This social identity includes, besides familial and professional relations, that "I belong to this clan, that tribe, this nation. Hence, what is good for me has to be the good for one who inhabits these roles." (AV 204-5) These social roles, moreover, have an important historical dimension; they are constituted by "traditions" which are not only retrospective but involve "an argument precisely in part about the goods which constitute that tradition" (AV 207). It is such traditions that provide the culminating component in the definition of the virtues. "The virtues find their point and purpose" not only in sustaining practices and whole individual lives "but also in sustaining those traditions which provide both practices and individual lives with their necessary historical context" (AV 207).

I wonder, however, whether MacIntyre has not given us a persuasive re-
definition of "tradition". He emphasizes his opposition to a Burkean, con-
servative view of tradition. There is a question whether his conception of
a tradition would permit us to talk of traditions of racism, slavery,
religious obscurantism, the ancien régime, and so forth. In his conception,
traditions involve "argument" and indeed conflict: "when a tradition is in
good order it is always partially constituted by an argument about the
goods the pursuit of which gives to that tradition its particular point and
purpose ... Traditions, when vital, embody continuities of conflict." (AV
206)

This emphasis on "argument" strikes me as salubrious. But there remain
questions about methods, contents, and especially outcomes. MacIntyre
does not tell us what criteria, including moral as well as intellectual ones,
enter into his conception of "argument". He therefore gives us no way of
knowing whether or how such argument will indeed lead to genuine know-
ledge of the relevant "goods". Moreover, there is the question whether
"continuous argument" may not go so far as to lead to the destruction of a
tradition, such as when the French Revolution overthrew the tradition of
the ancien régime.

The moral indeterminacy implicit in MacIntyre's concept of tradition becomes
explicit in his discussion of the related concept of a community. For while
he holds that traditions characterize the social life of communities, he also
recognizes that communities may contain morally wrong practices and
institutions:

"Notice also that the fact that the self has to find its moral identity in and
through its membership in communities, such as those of the family, the
neighbourhood, the city and the tribe does not entail that the self has to
accept the moral limitations of the particularity of those forms of community
... it is in moving forward from such particularity that the search for the
good, for the universal consists. Yet particularity can never be simply left
behind or obliterated. The notion of escaping from it into a realm of
entirely universal maxims which belong to man as such, whether in its
eighteenth century Kantian form or in the presentation of some modern
analytical moral philosophies, is an illusion." (AV 205-06)

This difficult passage raises a number of problems. On what criterion does
MacIntyre say that some forms of community have "moral limitations"? If his
criterion is that of the virtues as he has defined them, then his account
is circular. For since he defines the virtues in terms of what sustains
communities (together with their practices and the individual lives lived in
them), he cannot appeal to the virtues as providing an independent
criterion for the moral criticism of communities. It seems, instead, that
MacIntyre is appealing to a criterion which is quite distinct from his theory
of the virtues, one that is suggested by his unelucidated equation of "the

good" with "the universal". The fact that he at once goes on to reject
Kantian and related forms of universalism serves only to deepen one's
perplexity about the content and basis of his criterion for saying that
communities have "moral limitations".

Traces of the sort of universalism he has officially rejected can be found
in some of MacIntyre's other statements. For example, he writes: "To ask
'What is the good for me?' is to ask how best.I might live out that unity
(of a narrative quest) and bring it to completion. To ask 'What is the good
for man?' is to ask what all answers to the former question must have in
common." (AV 203) How does this "common" differ from the Kantian
"universal maxims which belong to man as such" (AV 206), which
MacIntyre has rejected? In view of his failure to provide any determinate
content for the "good" in question, his doctrine is as much open to the
charge of 'formalism' as is Kant's. In another passage, MacIntyre writes:
"What education in the virtues teaches me is that my good as a man is one
and the same as the good of those others with whom I am bound up in
human community." (AV 213) How is this statement related to MacIntyre's
earlier assertion that "particularity can never be simply left behind or
obliterated" (AV 205)? Since he has said that the "particularity" of forms
of community may have "moral limitations", can there be a "human
community" which avoids those "limitations"? Since, moreover, MacIntyre
ties his conception of "human community" to what he calls "the traditional
Aristotelian view" (AV 212), can his conception of "human community"
avoid the inegalitarian elitism which dominates that view?

It remains the case, then, that the concepts of tradition and community, to
which MacIntyre appeals in the third stage of his account of the virtues,
are as much infected with moral indeterminacy as are his first two stages.
The aspects of argument and universality which he invokes in his third
stage are left too vague in their contents and criteria to sever the virtues
from potentially immoral outcomes: outcomes that would be severely
oppressive to the basic needs of many actual or prospective agents.

7. The Morality of Law

MacIntyre might give two interrelated replies to this charge. One is that,
following Aristotle, he distinguishes between the morality of virtues and
the morality of law. The latter "prescribes and prohibits certain types of
action absolutely" (AV 141), the prohibited types being "the doing or the
production of harm of such an order that they destroy the bonds of
community in such a way as to render the doing or achieving of good im-
possible in some respect at least for some time. Examples of such offenses
would characteristically be the taking of innocent life, theft and perjury
and betrayal." (AV 142)[1] MacIntyre holds that "a morality of virtues
requires as its counterpart a conception of moral law" (AV 187).

It is in his account of the morality of law, then, that MacIntyre tries to provide for that basic morality whose indeterminate delineation I have criticized in his doctrine of the virtues. But what this shows is that, for all his emphasis on the virtues and all his decrying of a morality of rules, he makes the latter morally prior because it provides for the protection of persons' most basic rights. But this contradicts his earlier rejection of "the modern view" according to which "the justification of the virtues depends upon some prior justification of rules and principles" (AV 112). There may indeed be a difference between saying that a morality of rules is the "counterpart" of the morality of the virtues and saying that the latter "depends upon" the former. Yet, as we have seen, MacIntyre's morality of the virtues is morally quite indeterminate without his morality of law. Hence, from the standpoint of morality, it is indeed the case that his morality of the virtues depends upon his morality of law or of rules as providing the former's morally necessary conditions, even if not its sufficient conditions.

In addition, however, MacIntyre's morality of law, as he specifies it, does not go far enough to remove moral indeterminacy. For despite what he says about the "absoluteness" of legal requirements, their contents are relative to the goals of the "community". Here, his doctrine is affected by the moral indeterminacy I noted above in his discussion of the "communi- ty". MacIntyre says that the morality of law prohibits harms that "destroy the bonds of community" (AV 142). But which community? Aristotle's per- fect community required the enslavement of farmers and mechanics (Politics VII. 9,10, 1329a 26, 1330a 26 ff.); the Nazi community required the murder of Jews and others; the contemporary Afrikaner community re- quires the subjugation, economic and personal as well as political, of millions of blacks. For all his endorsement of a morality of laws, MacIntyre's specification of their "point and purpose", together with his unclear evaluation of moral universalism, leaves available such violations of basic rights, and hence a drastic moral indeterminacy.

8. The Virtue of Justice

A second reply MacIntyre might give to the charge of moral indeterminacy involves his discussion of the virtue of justice. He holds that justice is a "necessary component of any practice", in that in participating in a practice "we have to learn to recognize what is due to whom ... Justice requires that we treat others in respect of merit or desert according to uniform and impersonal standards." (AV 178, 179)

A crucial question here is whether MacIntyre provides any determinate criteria of "merit or desert". If justice is only a virtue of participation in "practices", then it shares the relativism or indeterminacy we have seen to characterize practices as MacIntyre conceives them. But he does view

justice as extending beyond practices: "the goods internal to practices, including the goods internal to the practices of making and sustaining forms of community, need to be ordered and evaluated in some way if we are to understand relative desert. Thus only substantive application of an Aristotelian concept of justice requires an understanding of goods and of the good that goes beyond the multiplicity of goods which inform practices." (AV 188)

But what are these further "goods and the good"? No clear answer emerges. Apart from his reference to "the telos of a whole human life", which I have already considered, MacIntyre seems to put the relevant criteria in terms of the needs of community: "To deserve well is to have contributed in some substantial way to the achievement of those goods, the sharing of which and the pursuit of which provide foundations for human community." (AV 188) But the question that arises here, like the one I raised above, is: What does MacIntyre mean by "human community"? This is a vital question for understanding his criteria of "merit or desert", and hence of justice. We have already seen that he refers to "the moral limi- tations" of certain "forms of community" (AV 205), and that he refers to "the good" as "the universal". But is this then an egalitarian conception of community, such that all persons are to share equally in the relevant goods? MacIntyre says that eighteenth-century republicanism manifested "a passion for equality" (AV 220); but he does not attribute this to his own conception. Thus, just as he gives no clear answer to the substantive question of what are the goods which persons ought to pursue, so he also gives no clear answer to the distributive question of who should have these goods, and in what proportion they ought to be "shared".

This unclarity about "goods" and "community" is found in all of MacIntyre's further discussions of justice. For example, he criticizes Rawls and Nozick for having "views which exclude any account of human community in which the notion of desert in relation to contributing to the common tasks of that community in pursuing shared goods could provide the basis for judgments about virtue and injustice" (AV 233). He also says that "goods ... can only be discovered by entering into those relationships which constitute communities whose central bond is a shared vision of and understanding of goods" (AV 240). But MacIntyre remains quite vague on how goods are to be recognized in this "shared vision", and in what proportion these goods are to be "shared". As a consequence, his doctrine leaves available mutually opposed structures of community and criteria of desert. Thus his accounts of the morality of law and the virtue of justice fail to remove the moral indeterminacy that we have seen to infect his account of the virtues.

9. Moral Virtues Must Be Based on Human Rights

The conclusion that emerges from this examination of MacIntyre's whole doctrine is that the conceptual resources he deploys in making the virtues central to moral philosophy are inadequate substitutes for the more traditional view that derives the content of the virtues from moral rules about rights and duties. Having removed the grounding of the virtues in such rules, he is unable to give the virtues a morally determinate content. Most directly, his account of the virtues needs to be anchored in the very concept he has declared to be "fictional": human rights. Virtues cannot be genuinely moral, in the sense of morally right, unless their content requires at least an abstention from removing from innocent persons the necessary goods of action and also, in certain circumstances, the equal promotion of those goods. It is for this reason that the prudential virtues of courage, temperance, and prudence, which are parts of each agent's additive well-being, must, if they are also to be moral virtues, "be guided by or at least be subordinate to the other-regarding virtue of justice" (RM 243). If MacIntyre had recognized this, and had thereby made human rights central to the virtues themselves, he would have avoided the moral indeterminacy we have seen to mar the ways in which he relates the virtues to practices, to the telos of whole human lives, and to traditions and communities.

The Principle of Generic Consistency (PGC), to which I have referred above, does not have this indeterminacy. For since it is derived from the generic features and necessary conditions of purposive action, it has an invariant content. And this invariance also characterizes the rights and duties which the principle sets forth as required for the equal possession of the necessary conditions of action by all actual or prospective agents (RM 164-70). In addition, respect for the generic or human rights of the PGC is categorically obligatory for all actual or prospective agents, since no agent can deny or reject the principle, on pain of self-contradiction (RM 135).

It may still be objected that human rights, including those upheld by the PGC, suffer from moral indeterminacy. For example, there is disagreement over whether such rights are positive or only negative, and over whether they include social and economic rights as well as political and civil rights. As I mentioned above, however, the fact of disagreement is not decisive as to the question of rational justification. The PGC establishes that human rights include social and economic goods as well as political and economic ones. This can be seen from the fact that the objects of the rights are the necessary goods of action. These goods include food, shelter, and other basic goods, as well as the means of obtaining wealth and income (RM 246-49, 312-17). The moral rights to these and other necessary goods of action are determinate both because of the invariance of their objects, to which I

have referred above, and also, more generally, because they logically can-
not involve the infringement of any person's rights except under the PGC's
rational criteria for resolving conflicts of rights (RM 338-54). At the same
time, human rights as explicated by the PGC also further the value of
social solidarity (see Gewirth 1982a, 18-19). A rational systematization of
the various human rights, including both freedom and well-being, can be
achieved on the basis of their relation to the necessary conditions of action
and successful action in general (RM 205-06), and this without the moral
indeterminacy which, in MacIntyre's account of the virtues, leaves open
the possibility of drastic infringements of freedom and well-being without
regard to persons' rights.

The crucial difficulty of MacIntyre's whole doctrine, then, is that he has
removed from his account of the virtues their morally necessary grounding
in human rights. It is for this reason that, despite his obviously humane
intentions and the brilliance of much of his historical discussion, his
central project, as an enterprise in moral philosophy, can hardly be called
successful.

Note

1 Despite his general acceptance of the need for a "morality of law",
   MacIntyre insists on localizing in time the conception of morality that
   largely reflects this need. Thus he writes: "It was in the seventeenth
   and eighteenth centuries that morality came generally to be understood
   as offering a solution to the problems posed by human egoism and that
   the content of morality came to be largely equated with altruism. For
   it was in that same period that men came to be thought of as in some
   dangerous measure egoistic by nature." (AV 212) But on the contrary,
   this view of morality and man goes back at least to Plato's Republic,
   where Glaucon reports men as saying: "By nature to commit injustice
   is good... the just man will resort to the same conduct as the unjust
   man, because of the self-advantage [pleonexian] which every creature
   by its nature pursues as good." (Republic II. 358D, 359C) The
   Republic as a whole is concerned with finding a solution to the problem
   posed by this "natural" pursuit of self-aggrandizement.

Bibliography

Bentham, J. (1973), A Critical Examination of the Declaration of Rights,
    in: Bentham's Political Thought, ed. B. Parekh, New York

Gewirth, A. (1974), Ethics, in: Encyclopedia Britannica, 15th. edition,
    vol. 6, 976-998

-   (1978), Reason and Morality, Chicago

- (1982a), Human Rights: Essays on Justification and Applications, Chicago

- (1982b), Why Agents Must Claim Rights: A Reply, in: Journal of Philosophy 79, 403-410

- (1984), Natural Law, Human Action, and Morality, in: R. Porreco (ed.), The Georgetown Symposium on Ethics: Essays in Honor of Henry B. Veatch, Washington

MacIntyre, A. (1981), After Virtue, Notre Dame-London

Marx, K. (1978), On the Jewish Question, in: The Marx-Engels Reader, second edition, ed. R.C. Tucker, New York

Nozick, R. (1974), Anarchy, State, and Utopia, New York

Rawls, J. (1971), A Theory of Justice, Cambridge/Mass.-Oxford