Making Morality Intelligible[1]

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Abstract
The demands of morality ought to be intelligible. However they are not always *readily* intelligible. Thus it is easy to see why we need good sense and courage, and why we should seek to live at peace with our neighbours. But moral necessity is not always that transparent. Furthermore the intelligibility we seek is perhaps not always of this kind. This paper illustrates these difficulties by considering certain basic and unshakable convictions we share about homicide and sexuality, two topics we tend to think badly about. And it explores a significant similarity in the moral philosophies of Anscombe and Kant.

1.

Why is slavery wrong? Naturally, as any philosopher would, I sought the advice of Yahoo Answers. Their best offering, 'chosen by voters,' was this. *If you have to be told, you need help*… Well there was wisdom in that, I thought. We philosophers often have to be told the answer to questions of this kind. And as for help, we need all the help we can get.

And this is not because we have any doubt that slavery, let us say chattel slavery, *is* wrong, But it is easier to see what we must say here than to give an account of the answer. Our task here is the familiar one – it is one of belief seeking understanding. This is a matter of elucidation rather than justification, though I dare say the distinction is not a sharp one.

We should expect a moral teaching to be reasonable.[2] We might put the matter this way. Though no particular individual would need to

[1] A paper written for a conference on the moral philosophy of Elizabeth Anscombe, Oxford, September 2013. References to Anscombe will be abbreviated as follows: *CPP3* is for *Collected Philosophical Papers, Vol.3*, Blackwell, 1981, *HLAE* for *Human Life, Action and Ethics*, Imprint Academic, 2005, and *FIHG* is for *Faith in a Hard Ground,* Imprint Academic, 2008.

[2] Elizabeth Anscombe certainly insisted on this, *FIHG*, 177–8. In particular she wanted to say that a moral teaching, even a specifically religious moral teaching, could not be a revealed mystery, like the Trinity. If you became a Christian, she said, you found that 'the Christian life simply imposed these restrictions on you', *FIHG*, 171. But all the same there had to be some sense to them all. 'Reason demands that there be an account'

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be competent to give a reasoned account some people at least should be able, with luck and with learning, to appreciate the good sense of it, if not now then some time in the future. We would indeed like to know other related things, not only why a bad action is bad, but also why it is *as* bad as it is, why similar actions are *not* bad, and why in a state of nature rather different rules might apply. We would also like to know how badness is related to the will, if that is not already covered by these questions. And in all this we do well to focus attention on what is bad, since all-rightness is the default condition – as is goodness in respect of actions done for a reason, even quite trivial actions like buying a newspaper, rationality being a virtue.

Understanding, here as elsewhere, comes in degrees. More or less anyone asked to explain why slavery is wrong, for example, can surely say *something* relevant. Some understanding might indeed be necessary, since teaching about conduct needs to be applied. 'How can one instruct an archer to aim at an unseen target?' as Anscombe remarked (*CPP3*, 49–50). The task of making plain this reasonableness beyond these primitive intimations can however be difficult. And failure here could hinder critical thinking. Philosophers will no doubt remember how, in October 1917, Wittgenstein inscribed on the last page of his current notebook a dramatic conditional: 'If suicide is allowed then everything is allowed'. The acceptability of such a conditional would call for an understanding of the why's and wherefore's, an understanding which we might not have.[3]

Even the learned can conspicuously fail in insight. Bernard Williams and Michael Tanner, in commenting on Anscombe's 'Contraception and Chastity,' stated, with a flourish of fine irony, that 'it is a curious feature of Prof. Anscombe's view of these things that both Church and Pope turn out to be so much better at conclusions than reasons.'[4] However, 'being better at conclusions than

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FIHG, 200. See also *HLAE*, 265. (My sentence 'It is easier to see…' a few lines further up the comes from *CPP3*, 83. Anscombe was thinking here about Catholic teaching in regard to contraception, but this kind of knowing and yet not-knowing is common.)

[3] The question at issue was not in the least 'academic' as we know from Wittgenstein's family history. An argument relying on such an 'if' can also be found in Elisabeth Anscombe's own writings, for she suggested that if someone judged contraception to be permissible he would have also to accept as permissible all manner of sexual goings-on, *FIHG*, 172, 181, 183, 197, 201, 210–1.

[4] *The Human World* (November 1972), 42.

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reasons' can be the predicament of us all, including all those metaphysicians earnestly inventing bad reasons for what they believe on instinct.[5]

Belief without much understanding can coexist with a respect for truth. This would be a suspect claim if it were supposed confined to moral matters. But the predicament is pervasive, though it characteristically takes philosophical sensitivity to make this plain. It arises even in the most elementary mathematics – something that Frege so vividly demonstrated in *The Foundations of Arithmetic*.

Here of course we *are* confined to moral matters. What counts as success in our present project is itself not too clear – as Philippa Foot, in her long and admirable life of enquiry, found out. What does 'making sense' amount to? In particular, should we regard foolishness, unwisdom, as *the* moral defect? Is bad behaviour simply[6] a matter of unwise behaviour – not perhaps judging act-by-act but also by taking into account that we need to have a certain character? It can certainly appear so. That we *need* courage, that is to say the ability intelligently to face the fearful, can be made particularly clear to us. Yet what are we to say about that other cardinal virtue, or apparent virtue, called justice, the virtue which calls for a constant will to render unto others what we owe to them? It is not so evident that every individual stands in need of such a determination of mind. This paradox of reasonableness, which we inherit of course from the *Republic*, continued to trouble Mrs Foot, prompting three different responses, and perhaps her last thoughts on this topic were not among her best.

And then there is the question of definition. It is noteworthy that neither Elizabeth Anscombe nor Peter Geach considered themselves able to define justice, beyond perhaps the traditional formula we have repeated just now (about that 'constant will'), a formula which might be thought rather minimally informative.[7] What would count as a satisfactory definition? And what would be the practical importance of

[5] Compare Lord Mansfield's well known remark: 'Decide promptly, but never give your reasons. Your decisions may be right, but your reasons are sure to be wrong'. Outrageous if taken generally but good sense perhaps in context.

[6] It is possible to think that a measure of wisdom is necessary even if not sufficient. Anscombe robustly asserted the necessity. 'A fool can hardly be just or brave', *HLAE*, 197. See also *CPP3*, 65.

[7] Anscombe, *CPP3*, 29 and 39. See also her remark: 'The notion of a right is very fundamental and philosophically very intractable…. But how to explain it? No one has succeeded in this.' *CPP3*, 138. And Geach, *The Virtues* (Cambridge University Press, 1977), 120,

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failing to find one? We are not of course to pretend not to know what 'unjust' means (*CPP3*, 39).[8] It is of interest that definition can come so late in an enquiry, if it comes at all.

Yet if we are not too sure what counts as success we can often detect failure, just as we can so often cite what it would be foolish to do where we are at a loss as to what would be wise. Let me illustrate how we can detect failure in the simplest way, by asking our question in relation to stealing. 'Why is it bad to steal?' Simple folk – moderate sized school children perhaps – are likely to give the answer 'Well, I would be most upset if someone stole *my* stuff'. This is not irrelevant, but it is insufficient (and this quite apart from the lingering problem how even *this* answer is supposed to work). After all, one can steal where the loss will never be noticed, or might indeed be welcome. And it is bad to steal from corporations, although they have no feelings to be hurt. There is therefore an explanatory gap.

There is bound to be more than one way of failing. The presence of a gap is doubtless just one kind of explanatory defect. The idea of an explanatory gap however will be a key notion in this paper. And I am thinking in particular of cases where no one would be willing to shrink their moral teaching in order to eliminate the gap in question. And I am talking about what is already a pretty minimal morality. To find that these problems will arise for an extravagant morality, constructed to impress, will surprise no one. The larger the claim the larger the explanatory liability.

In this essay I am going to discuss our difficulties in understanding morality first in relation to homicide and then in relation to sexuality. Our troubles will be found to stem from a common lack.

2.

What do Plato's Protagoras, Hobbes and Mill all have in common, apart from being featherless bipeds? The three of them share a view of the requirements of justice. The requirements of justice, according to the Protagorean view, are constituted by a set of rules we need to teach and up to a point enforce if we are to have a chance of living together in moderate peacefulness.[9] Here we have an account of the

[8] Compare Geach's amusing parable of Socrates and the ingenuous youth, *Logic Matters* (Blackwell, 1972), 35.

[9] I am thinking of course of the story about the origins of justice in the *Protagoras* at 322b. In including Mill I rely on the account of the requirements of justice in Chapter 5 of *Utilitarianism*, initially conceived as a

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good sense of morality – or better, of the central area of it under consideration – as the prudence of the collective 'we'. The account is intelligible, familiar and attractively unmoralistic. And it is to be found in quite a range of philosophical writing. I might have included Hume on my list – in regard to his writing on justice at least. It is interesting to see its emergence across different times and cultures.

The account is perhaps best worked out in Hobbes, a fact insufficiently appreciated by all those who are distracted by Hobbes's espousal of psychological egoism. Hobbesian egoism is simply an idle wheel in the mechanism. The saintly and the selfish would be egoists alike, and of necessity. Hobbes, as he makes very plain, did not 'accuse man's nature'; he had in fact a rosy view of it, preferring to think that people never actually embrace what is evil but are merely 'hoodwinked' by their worldly desires. He also refused to believe that that people could be cruel – as opposed to ruthless: 'That any man should take pleasure in other men's great harms, without other ends of his own, I do not conceive it possible'. People who despise Hobbes will often turn in awe to Kant, that is to say to someone who really did believe we were made of crooked timber, and who thought that every man needed to be placed under the control of a minder, someone capable of 'breaking his will'.[10]

The Protagorean account well fits the cherished description: 'natural law'. It is surprising what nonsense can be written about natural law – sometimes indeed in an effort to correct the nonsense of others. Not so here: we are safely in the land of the straightforward. It is because we humans are the kind of creatures we are, considered very broadly, and because the circumstance of life are thus and so, again considered very broadly, that there is a necessity (as it were a

separate essay. This account has nothing particularly to do with 'maximizing happiness'. Mill himself translated or paraphrased the *Protagoras* as a young man.

[10] That Hobbes did not accuse man's nature, see *Leviathan*, Ch.13, and better, *De Cive*, Preface. That Hobbes does not believe cruelty possible, is from *Leviathan*, Ch. 6; For Kant's demand that all must live under the gaze of a supervisor, see 'The Idea of a Universal History,' Proposition 6. Kant, as Plato had done before him at *Republic* 359c, here mentions human egoism, and not at all of the 'idle wheel' variety. This reference to egoism in Plato and Kant is quite unnecessary. Altruism, and especially non-tuistic altruism, constantly prompts conflict and wronging. (A non-tuist altruist cares for others, but not necessarily for *thee*. This useful term was introduced by Wicksteed.)

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communal necessity) for us to live by certain teachings and regulations. We thus come to understand how actions can in this way be against reason. Elizabeth Anscombe has a good passage here.

> Actions 'against reason' are actions against nature, i.e. against what we ought[11] to do according to our nature. Suppose we were born able to talk, to run about like foals, to handle things and move them purposefully. Suppose that we didn't need sleep, but a sleep-like condition was a rare thing with consequences that were bad for us. Suppose there were 'people seeds' blowing about all the time. Suppose that anyone killed would come to life again after a month if kept suitably – but unless they did they became rooted in the ground like trees. Suppose everyone changed to the opposite sex at the age of about thirty. There would be different rules of behaviour; moral virtues and vices would involve different actions from what they involve in our lives as they are (*FIHG*, 122).

Natural law is a law for a world roughly as is and is going to remain. We might well distrust our competence to draw up moral programmes for exotic possible worlds.[12]

The description 'natural *law*' becomes particularly apt if this account is joined to a doctrine of a divine lawgiver, as Hobbes himself pointed out in a well known passage: 'These dictates of reason, men used to call by the name of laws, but improperly; for they are but conclusions, or theorems concerning what conduceth to the conservation and defence of themselves; whereas law, properly, is the word of him, that by right hath command over others. But yet if we consider the same theorems, as delivered in the word of God, that by right commandeth all things; then they are properly called laws.'[13] About the divine law in particular Anscombe wrote (continuing the

[11] This is a perfectly mundane 'ought', not an 'ought' in some supposed moral sense (*CPP3*, 29).

[12] On this view of natural law see also the clear account in H. L. A. Hart, The *Concept of Law* (Clarendon Press, 1961), Ch. IX, §2. Hart aims to disclose 'the core of good sense in the doctrine of natural law' (194), claims to have given a 'simple version' of it (195), and naturally invokes Hobbes and Hume (254). My sentence 'We might well distrust…' is a near-quote from Peter Geach, *The Virtues*, 144.

[13] *Leviathan*, Ch.15, last paragraph. Anscombe would surely agree. But it is possible to misinterpret 'Modern Moral Philosophy'. The entry *Anscombe* in *The Cambridge Dictionary of Philosophy* (Robert Audi, ed., Second Edition (Cambridge University Press, 1999)) takes her to be saying that 'ought-statements make sense only in the context of a moral

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passage just quoted): 'If our nature is a divine creation, the divine law would be different if the nature created was different, and it would command and forbid the things that would then be good and bad according to that nature's needs. These things reason could work out without belief in divine commandments'.[14] So in one way, the added appeal to divine law changes nothing. But in another way it changes everything, For an offence to reason is now seen additionally as a offence to God, a *second* offence to reason, a wrong done to someone one should respect and reverence and love. And indeed fear. The idea that we can owe someone obedience is not of course a particularly religious one. A child told to fetch his father's slippers must do so.

The stress on security in the Protagorean account is perhaps misleading. People can rationally choose to live somewhat dangerously. And children can be over-protected. We need to dwell on the consequences of the type of insecurity which Hobbes envisioned, what is listed immediately *before* the much remembered description of life in a state of nature as solitary, poor, nasty, etc. Indeed in some measure one can bypass the notion of security all together. Think here of Anscombe's remarks about the pervasive role in life of a respect for contract in 'On Promising and its Justice', *CPP3*,[15] and what Geach had to say about our need for an institution of private property, in 'Some Hobbesian Theses about Justice,' a relevant article in several ways. [16] But justice being, as it were, imperative,

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theology that grounds morality in divine commands'. Not so – as several pages in that article attest (see e.g. *CPP3,* 38, 41).

[14] In 'Contraception and Natural Law', *New Blackfriars*, June, 1965, Anscombe said that the notion 'against the natural law' was simply equivalent in extension to the notion 'what is wrong' (517). Hence there was no such thing as *the natural law argument against X-ing*, where this would be an argument purporting to distinguish this wrongful action from others. In her view the italicized phrase could only mean, quite uninformatively: the argument against X-ing to the effect that it is wrong! (518, her exclamation mark). See also *FIHG*, 178–9. She wished in particular to counter the idea that one could object to X-ing by saying that X-ing was somehow unnatural. Some unnatural actions (standing on one's head, let us say) are consonant with the natural law, some perfectly natural actions (picking a pocket, for example) are opposed to it.

[15] This was an essay much admired by Philippa Foot, *Natural Goodness* (Clarendon Press, 2001), 15, 45.

[16] *Dialectics and Humanism* (1979), 47.

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our focus must remain on what is needed rather than on what might be nice to have.

3.

However there are deep difficulties with the Protagorean account. It is surprising that this can be so. The account can seem so compelling. Admittedly, rules 'for the preservation of men in multitudes' need to be supplemented if we are to give an account of morality which takes us beyond the requirements of justice. Hobbes talks of 'things tending to the destruction of particular men,' and mentions our need for temperance in particular (*Leviathan,* Ch. 15). But this extension allowed for, what's not to like?

Some years ago I used to teach medical ethics. And every year, quite early in the course when we were dealing with basic matters, not exclusively medical, I would convene a 'murder morning'. We would spend this morning considering the very idea of murder, and why 'murder' did not simply mean illegal killing; or even – though less obviously – unjust or wrongful killing, for a killing otherwise permissible can be unjust incidentally.

To avoid distractions, I would confine our examples to uncontroversial cases: the killing of an aunt for a legacy, let us say. It was important where possible to avoid examples that would evoke tears, anger or revulsion. Murder mysteries are the staple reading of the easily shocked, none of whom faint away when they encounter the fictional blood on the carpet. And in any case, murder can be a gentle thing and quite unalarming to the victim. It is unthinking to talk of murder as a species of 'violence' as people feel compelled to do. Perhaps they have seen too many Westerns. Bentham knew better; he was able to refer to infanticide, in the guise of a cure for offspring-unwantedness, as 'this gentlest of all remedies'.[17]

We would consider in particular how to articulate the objection to murder, including such as is gentle. Each year I would take up various inadequate suggestions, involving autonomy, regret,

[17] *Not Paul, But Jesus, Vol. 3*, Chapter 4, 'Evils produced by the pleasures of the bed in ordinary mode – Remedies to them interdicted by Asceticism', §2, www.ucl.ac.uk/Bentham-Project/publications/npbj/npbj. Bentham views on such matters, as one may read on a Bentham-Project webpage, 'were many decades ahead of their time'. It is hard to think of Bentham and Nietzsche in the compass of a single sentence. But Bentham frees us from certain inhibitions and Nietzsche from others. Taken together, true liberty is to be found.

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loss, etc, before finally offering my students the common-sense Protagorean answer. But one day, while preparing for the murder morning, I was suddenly struck by an embarrassing truth: that my favoured answer, so often provided, also failed. And not only that - it *quite obviously* failed, and this in at least two ways.

Firstly, the Protagorean account does not explain our conviction that it is just as bad to kill people at a distance, far away from our community, in Patagonia for example, as it is to kill people across the street. It is easy to do either by sending a box of poisoned chocolates. We do indeed have a special Protagorean duty, limited but not necessarily light, to love our neighbour, even the stranger in our midst. But when it comes to sending someone poisoned chocolates our obligation extends beyond the Protagorean: the basic wrong, near or far, is the same. Such is our unshakable conviction.[18] And secondly, the Protagorean account does not explain why it is wrong to kill the very young *within* our community, toddlers say, or infants. Bentham is thought to have described infanticide as 'of a nature not to give the slightest inquietude to the most timid imagination'. This, as many will know, is a quotation dear to the heart of Peter Singer and if he uses it as we have done he clearly has a point.[19]

Here we find once again an explanatory gap, or perhaps I should say two. I had to confess to my class that I could not provide them with an explanation why murder is wrong, even when confining our cases to what would be everywhere recognized as murder. I

[18] I say 'our'. But of course it has by no means been the universal conviction of mankind. Rather the reverse is true; Nuer would routinely kill Dinka, etc. And I imagine we would not be able to prove to the satisfaction of a patient Nuer philosopher that we are in the right. (Compare the interesting passage about Wittgenstein and witchcraft, *FIHG*, 58.) Incidentally, the somewhat dodgy claim that with the invention of the aeroplane and the telephone 'we are all one community now' is just be a distraction. It would be unconscionable to send those chocolates even if we were *not* 'one community'.

[19] The quotation attributed to Bentham by Peter Singer comes, via Westermark, from a English translation of a translation into French by Etienne Dumont. Dumont attempted both in this work and elsewhere to improve both the style and content of the original. (See the entry for Dumont in DNB.) Dumont also has his Bentham say at this place that infanticide ought to be punished by branding the crime with disgrace, seeing that 'it is not possible to fortify too strongly the sentiments of respect for humanity'. *Theory of Legislation* (Kegan Paul, 1911), 264–5. This latter remark is not to my knowledge quoted by Peter Singer.

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hope in retrospect that this was itself instructive – and not just about my personal incompetence.[20]

I had provided my students with an account of the sanctity of life with the sanctity left out. I suspect at any rate that that was the reason. And I say sanctity not sympathy. Sympathy would demand the killing of one to save five. So in this way it merely introduces further difficulty. And even more evidently so if our sympathy is to extend to merely 'possible people', all those individuals unlucky enough never to have been conceived – more numerous than all the sand grains of Arabia as Richard Dawkins has pointed out with such touching concern.[21]

As so often, we know more than we well understand. We are in search of the deeper understanding of what we are not the least uncertain of. I will not ask *how* we know. Talk of intuition seems entirely idle, if not fraudulent, in this context. Talk of emotion is a distraction: the conviction – exposed in a classroom discussion – that it is bad to send poisoned chocolates to Patagonia is a dry classroom truth; it would be absurd to attribute it to the emotive stirrings of patagoniaphilia. Indeed any thoughts we might have of a causal predisposition to think this or that are utterly speculative and are in any case irrelevant. All this admitted, no one should feel guilty in insisting that it is equally murder to kill those who live faraway as to kill a neighbour. No one should suppose such an opinion to be *damagingly* ungrounded. It is not to be dismissed as conventional, dogmatic, unthinking, timid, or conservative.

4.

I expect we will find explanatory gaps in other areas. Thus the Protagorean story would doubtless also fail to answer the question about slavery with which we began. But I want to consider here in particular the case of sexual ethics. I will be saying rather more about sex than about homicide, partly because it will seem more controversial and partly because I have already written about homicide elsewhere. I shall eventually interweave our thoughts about these

[20] In my days as a teacher a certain solution to the controversy over abortion was popular. All one had to do was to state why it would be bad to kill one's aunt, let us say – not much difficulty there, surely – and then ask oneself whether the same considerations would apply when it came to the killing of one's unborn child. Job done, outcome doubtless satisfactory.

[21] Richard Dawkins, *Unweaving the Rainbow* (Allen Lane, 1998), 1.

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two topics. And at that point I will want to turn to what Elizabeth Anscombe had to say about both. Anscombe wrote frequently about them: not, she explained, because these were the only matters of moral importance. Certain matters needed to be written about, since what had to be said could be expected to be hateful to the spirit of the age (*FIHG*, 191).

The discussion will incidentally reveal another uncertainty about the project of making morality intelligible, an uncertainty as to what is required. I am thinking of a distinction between what might be thought to be foundational – which the Protagorean approach seems to give us – and an approach which leaves foundational questions dangling and works from moral assumptions considered to be sufficiently convincing without the need for further enquiry.

There is a familiar are rather simple account of sexual ethics which anyone these days might give, largely turning on considerateness. We should be *moderately considerate* in our sexual dealings. That would be something of an axiom. Accordingly, we should take care not to be a nuisance, or to bestow unwelcome attentions without good reason. We should not cause unnecessary harm or disappointment. And we should be careful not to spread diseases. There would also be ancillary teachings. Deceit for example would be discouraged. Generators of children would be expected up to a point to take care of those they generate. Any promises which happen to made (for example at weddings) should be given a certain weight. Furthermore, as a matter of common sense, sex should not be allowed to distract us from various tasks.[22] All this taken care of, liberation would be the objective and toleration the virtue. We would be invited honestly to explore our individual sexuality and to be open to new possibilities, possibilities which nourish the soul…[23]

This is of course the briefest account imaginable, but it will do for our purposes. I should perhaps have mentioned the nigh ubiquitous background assumption, more biological than ethical, that sexual activity is some kind of necessity, 'a basic human need' – though to

[22] There is a political dimension to this last. According to the Beijing *Workers' Daily*, 'love between man and woman … consumes energy and wastes time. On the other hand, love of the party and of the chairman, Mao Tse-tung, takes no time at all and is in itself a powerful tonic.' (Culled, with gratitude, from Tony Honoré, *Sex Law* (Duckworth, 1978), 3).

[23] I owe the attractive phraseology in this sentence to a piece in *The Guardian* by Margaret Corvid, July 31st, 2014. Ms Corvid describes herself as a kinkster.

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be sure, since as we are not all alike, there will be different strokes for different folks.

This account might be thought to start with a great advantage. It makes room for those who have personal views of sex and its meaning. Most people will be expected to see sex as a sort of play. They might go in search of one pleasure after another, perhaps with the aid of pills and devices. There might also be an emphasis on versatility. Yet this attitude to sex might not suit everybody. Many would not see sex as wholly a matter of casual enjoyment, any more than they would think such a thing about music or literature. There is space for them. Indeed the account makes a more generous allowance than this. It creates a niche for personal attitudes no matter how restrictive, prudish, absurd, out-of-date, behind-the-times, or religious in character they might be. The timid in particular are catered for. 'Don't fancy it? Well, don't do it.'

All in all then, no one has any right to feel threatened by the new attitude to sex. It should be acceptable to persons of every orientation and none. Those few who are still prepared to criticize it, old men for the most part, are said to be 'obsessed about sex' – and this even when obsession with sex is what they complain about.

What we have sketched seems to represent what those two leaders of ethical opinion, Bernard Williams and Peter Singer, have in common. They have both stressed that there is nothing special about sexual morality – which I take (though not with complete confidence) to be an indication of the view I attribute to them. What is more, both authors think the matter worth no more than a few lines. Singer in particular says that sexual morality is too unimportant to be covered in his much-read book. Sex might be interesting but sexual ethics can only be a bore.

It would be hard to overestimate the significance of this joining of hands. What space could be left for disagreement? Such a measure of concord between remarkably eminent philosophers of different feather must make the new morality something pretty standard, the new common sense. They seem to have captured to perfection what it is now the thing to think.[24]

[24] Bernard Williams, *Morality* (Cambridge University Press, 1972), 40, eight lines, appearing in parentheses; Peter Singer, *Practical Ethics*, 1st edn., (Cambridge University Press, 1979), 2. For the remark about sexual morality being too unimportant, see 3rd edn., 2011, 2. *Sex* is not indexed in Williams's *Ethics and the Limits of Philosophy*, though of course *sexism* is. The description 'of a different feather' finds its most evident support in

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To characterize this account of sexual morality we need a description of the kind used for describing various English translations of the Bible: 'The Revised Standard Version', 'The New Revised Standard Version', 'The New International Inclusive Non-Sexist Revised Standard Version' or whatever. Since there is merit in brevity I shall talk of the revised standard version of sexual ethics.[25] The explanation this version provides, I shall argue, is, at least in regard to what it rules out, rather like the explanation given by simple folk in relation to stealing. It is hard to object to considerateness, etc. But we are left with a gap. We are left indeed with an enormous and significant gap, and perhaps more than one.

Our new outlook has come to us swiftly but not quite all at once. The Wolfenden Report of 1957 had argued for toleration of what went on between 'consenting adults in private'. Yet with our increasing acceptance of the revised standard version each of these three confining descriptions has come into question, or would have come into question save for a certain timidity. Why such a stress upon consent, *informed* consent, though to be sure a measure of not-minding might be expected? And upon concealment from the public gaze, when the easily offended can close their eyes and think of something else? And in particular upon 'adults only'? Why, when sex seems to be nothing but play?

Not that we have been entirely content with what goes on between consenting adults in private. Consider the case of incest. One is permitted to have sex with oneself – that goes without saying - but not with the next closest thing, a sibling or a parent. Yet, given the new attitude to sex, the reason for the objection to incestual relationships, even if fairly permanent and affectionate, is not too clear. The argumentative tools are not available, a fact that is becoming increasingly evident. Of course we must leave aside dysgenic considerations, seeing that the link between sex and childbearing has been decisively abandoned. In any case abortion can take care of children with genetic defects.[26]

Williams's essay 'The Human Prejudice,' in *Philosophy as a Humanistic Discipline* (Princeton University Press, 2006).

[25] Add a reference to love and we have the Revised Standard (Christian) Version.

[26] This is an idea whose time has come. Within hours of my writing this passage there appeared a piece in *The Telegraph* sub-headed: 'Judge in Australia says incest may no longer be a taboo and the only reason why it is criminal is potential birth abnormalities, which can be solved by abortion', 9th July 2014.

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5.

I want to focus here on a particular issue, instructive for our time, that of child sexual abuse. Can the revised standard sexual ethic make sense of our objection to it? The matter has a broad significance. It might be difficult to say what a reasonable sexual ethic would look like, indeed I am sure it *is* difficult; but we might hope to take a step in this direction by considering the question I now propose to discuss.

Let us first recognize the remarkable change that has recently come about in our social concern, just as the new sexual ethic has gradually become dominant. Even the language is new. The two earliest uses of the phrase 'child abuse' recorded in the OED, stem from 1972 (*Newsweek*) and 1984 (*Toronto Star*); the word 'grooming' in its modern use stems from 1985 (*Chicago Tribune*).

Consider here three books stemming from those days. The standard textbook, *Clinical Psychiatry*, by Mayer Gross, Slater and Roth – a work which 'set a stamp on British psychiatry well into the 1980s in defining what it is to be a psychiatrist' – only mentions the molestation of children once in all its many pages, and not in the section on children but in the section on dementia.[27] In 1978 a survey of the law in relation to sex, *Sex Law*, was published by Tony Honoré, Regius Professor Of Civil Law at Oxford. It is written in 24 sections, *none* of which specifically relate to children. 'Sexual abuse' is not of course indexed.[28] In 1977 a volume appeared, commissioned by the Catholic Theological Society of America, called *Human Sexuality, New Directions in Catholic Thought*.[29] Neither in the fairly detailed table of contents, nor in the index, is there any mention of child-abuse or paedophilia. The topic is indeed touched on. There are six lines on the subject (212). Even here the authors are concerned not so much with the thought that children are in fact molested but to maintain that homosexual individuals are not particularly prone to molest them.

[27] *Clinical Psychiatry*, 2nd ed., (Cassell, 1960), 'Judgment and self-control are impaired [as a result of dementia], so that sexual assaults on young children or exhibitionism may bring formerly blameless characters to the attention of the police', 422. The quoted characterization of the textbook comes from the obituary of Sir Martin Roth in *The Independent*, 2006.

[28] *Sex Law* (Duckworth, 1978). See also fn. 43 below.

[29] A. Kosnik et al, eds, (London: Search Press), 1977. The 'new directions' of the title point us towards freedom. Celibates in particular do well on occasion to 'obtain reasonable relief from excessive sexual tension', 227. Several clerical readers appear to have said Amen to that.

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Consider another ecclesiastical response. In 1973 William McGrath, a lay preacher, was seriously abusing children at the Kincora Boys Home, Belfast. Valerie Shaw, who worked for the Free Presbyterian Church and had heard about what was going on, felt obliged to complain, twice, to her boss, the redoubtable Rev. Ian Paisley. On the second occasion, Paisley, perhaps somewhat irritated, admonished her thus: 'Sister, judge not that ye shall not be judged. Just thank God that *you* are not a pervert.' To be sure Paisley did then take action. He banned McGrath from speaking in his churches.[30]

Naturally, those of a more secular disposition had by this time long abandoned the notion of perversion. Anxiety about such a thing was not encouraged. Sensitive souls just needed to 'get over it'. There was talk of 'children's rights' – not so much a right against molestation but a right to get oneself molested.[31] There was also a political dimension. The German Green party was notably liberal in this matter, a stand for which it has later had to apologize.[32] It was a stand which could be attractively presented. A small Dutch party for example chose to call itself 'The Party for Neighbourly Love, Freedom and Diversity'. It promoted both paedophilia and animal welfare.

How things have changed. Child sexual abuse is by now pretty generally and vehemently condemned. Indeed, the attention given to it is

[30] Paul Foot, *Who Framed Colin Wallace?* (Macmillan, 1989), 132. William McGrath was eventually sentenced to four years in 1981. (The relevant chapter, 'Kincora', can be found at http://ianpace.wordpress.com/tag/paul-foot/). I do not want to make fun of Ian Paisley. Christians have long recognized that detraction – the wanton spreading of derogatory truth – is a failing, often a serious failing.

[31] Prominent feminist Kate Millett claimed in an interview in 1980 that children had an 'essential' right 'to express themselves sexually, probably primarily with each other but with adults as well'. Admittedly the relationship should not be 'exploitative', an ever present danger to children in a society like ours seeing that 'their personhood is not acknowledged' (Interview by Mark Blasius, reprinted in *The Age Taboo*, Daniel Tsang, ed. (Gay Men's Press, 1981), 80). My use of 'molestation' would itself have come under scrutiny. '"Child molestation" is really a code word for the fears of straight men and women that their children might escape the prisons built for them'. Tom Reeves, 'Loving Boys' 1978, also reprinted in *The Age Taboo*, 28.

[32] For some background, see 'Investigation launched over German Green party's support for paedophiles in the 1980s', *The Independent*, 18th May, 2013. See also 'Calls for legal child sex rebound on luminaries of May 68', Jon Henley, *The Guardian*, 24th Feb. 2001.

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remarkable; it never seems to be off the news. It is taken much more seriously for example than bullying, an activity which causes such frightful misery to so many children and which has indeed led to suicide. Bullying moreover is *intended* to hurt. The contrast I believe provides a clue to the underlying thought.

This new consensus has nothing in particular to do with religion. We often hear people comment, either in sadness or in mild contempt, that the Church of England has allowed itself to become entangled in matters of sexual controversy. Yet the upsetment about sexual abuse entangles all. There is an unmistakable fixation on it. I recall how Elizabeth Anscombe, writing at a time before sexual abuse had come to dominate the news, would speak of 'the strange obsessiveness and pervasive atmospherics of disorderly sexuality as it infects a culture' (*FIHG*, 210). This would seem a case in point.

I am not saying that our new-found sensitivity is admirable in every respect. We have not grown any the less cruel; the ghastly baying crowd has just discovered a different target. 'Let he who is without sin cast the first stone.' That might have been written especially for our time. Isn't a propensity to molest small children considered by psychiatrists to be a disorder? Quite often at least it must be a burden or an affliction, and not one, it would seem, which is culpably acquired by those who suffer from it. It is a burden which must be carried in secret. Even where there is actual molestation people will assume that a paedophile cannot possibly have affection for a toddler he molests. A belief that such a thing cannot exist is surely just a prejudice, rooted deeply in the minds of those who think they haven't any prejudices.[33]

All the same, if we are heartless and unforgiving about the weaknesses of others in this area, as I believe we are, I whole heartedly agree that we are right seriously to object to child sexual abuse – and object still more to those who advocate liberation in this respect, for to advocate it is to adopt a stance rather than to yield to a weakness. But if reason demands our condemnation, as it surely

[33] Help rather than hatred is called for. In the USA, the UK and Ireland there is a confidential helpline for those troubled by their inclinations or behaviour, called 'Stop It Now'. Callers are asked not to supply details which could identify them. The organizers thus evade the inevitable complaint of 'cover up' by choosing voluntary ignorance. I should perhaps say that I am not concerned in these pages with human attachment as such between those sexually attracted. This in itself is something amiable and commonplace, though it often of course calls for self-control. Our new word 'relationship' blurs necessary distinctions.

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does, it is the *kind* of condemnation that should interest us in the present academic context. It is not like the condemnation of neglect, which might be equally frequent and is often serious. Child sexual abuse, it is sometimes claimed, is comparable to murder in the public mind. This is certainly reflected in the current sentencing tariff in our courts; a Cambridge doctor, for instance, was recently given 22 years (a sentence *reduced to* 22 years on account of an early plea of guilty) for fondling the genitals of young male patients, a sentence quite comparable to what is handed down for murder In one perfectly obvious way this comparison is absurd, for there can be peripheral sexual offences. But in another more interesting way it might seem just, since both involve a violation. The present consensus is noteworthy, especially at a time when abortion has come to be defended by Amnesty International and 'the human rights community,' and has, with the aid of benevolent philosophy, ceased to be thought comparable to murder, to everyone's great relief.

6.

Child sexual abuse provides the revised standard version with an interesting problem. According to this ethic, the abusive activities of paedophiles will be said to be wrong simply on account of the harms caused.[34] These harms are often vividly described and listed. 'Survivors of child sex abuse commonly suffer from depression, anxiety disorders, panic attacks, phobias, flashbacks, disturbing thoughts, intrusive memories, self-harming, alcoholism, eating disorders, and feelings of shame, anger, and worthlessness'. Or if survivors escape all of these, they may have 'significant problems with affect regulation, impulse control, somatization, sense of self, cognitive distortions, and problems with socialization'.[35] More briefly and drastically, lives are said to have been 'destroyed'. I heard the phrase

[34] To be sure, something might independently be said about the lack of consent. I consider this possibility in Section 10 below.

[35] The first list comes from the website of the Labour MP Tom Watson who has long manifested an admirable concern with this issue. The second, rather more academic, list comes from John V. Caffaro, *Sibling Abuse Trauma*, 2nd ed. (Routledge, 2014), 80. Psychiatrists who find it difficult to cope with all these variations may sometimes have recourse to a catch-all diagnosis of DESNOS, 'disorders of extreme stress not otherwise specified'.

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'whose life has been destroyed' used four times in this context by John Humphreys, that most trusted of commentators, in the course of a few days on the BBC breakfast programme *Today*, August 2014. It seems quite generally assumed that molestation is seriously harmful.

Since sexual abuse characteristically causes serious harm, it will be said, it is not compatible with that proper and responsible consideration for child welfare which the new ethic presumably demands. *That* is the way we should be objecting to it. True enough a child abuser might still be called a 'pervert' in the popular newspapers. It is one of their words. But it is not under this title that his activities will be complained of in somewhat more sophisticated publications. On the contrary, sexual perversion will there be regarded as the new norm.[36]

All this talk of harm makes for our problem. Is this story about harm, about the near inevitability of pretty serious or pervasive harm, credible – especially when we think of the range of cases? If not, we face once again a gap in our understanding. We will face such a gap either if we accept the revised standard version across the board, or if we are willing to go along with it in this particular case.

In our discussion of this question, we must, for a while, consider matters which would not be thought philosophical, save in the broad sense in which philosophers are expected to take an interest in critical standards of thought.

Child sexual abuse is held to cover a wide range – indeed it is considered a sign of one's sensitivity to extend this range beyond what is usual. The mere touching of a child in a certain frame of mind is not just a preliminary to abuse: it *is* abuse. There need not even be touching, exposing oneself would be sufficient. Or taking a photograph, again in a certain frame of mind. Investigating parents are advised by the NSPCC to ask their children to speak up if anyone has done anything to them 'down there' which made them feel 'embarrassed', 'sad', 'scared', 'upset,' or 'uncomfortable'. It is of some interest that the NSPCC in its advice stresses more than once that children should not be encouraged to think of this sort of thing as 'a big deal'.[37]

[36] I owe this apt description of our times to Frances Wilson, 'How sexual perversion became the new norm', *New Statesman*, December 19th, 2013.

[37] 'The Underwear Rule,' a guide for parents, specifically for those with children aged 5–11, www.nspcc.org.uk This is a useful unacademic source.

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Sometimes abuse manifestly is a big deal. Ian McFadyen was a pupil at Caldicott School which takes children from 7–13. He relates his experience 'I was sodomized by one of my teachers on a regular basis'. When this teacher stopped, another started. 'I was passed from teacher to teacher.' Mr. McFadyen's account was made much of in the newspapers and on TV. I have no means of knowing how representative his vile treatment might be, but it is reasonable to suppose that much abuse is not of this kind. There is no limit to what the abuse *might* involve, including torture or murder, or long term slavery at the hands of intimidating gangs and traffickers.[38]

I want largely to confine myself here to a special, but apparently not at all unusual, case: the non-violent sexual abuse, by someone friendly and known to the child, where the child is not threatened at any stage and is often too young to recognize itself as a victim. This is certainly not the group which suffers the most misery. But our purpose here is entirely academic.

I prefer in particular to talk of younger victims (that is to say, of paedophila in the narrow sense) because I do not wish to get involved in borderline issues about fixing the age of consent. It is worth noting that the age of consent and of marriageable age was much *lower* in earlier centuries even though the onset of puberty tended to be *later* and the young people concerned had less access to relevant information. This must have less to do with capacity to consent that with the extended schooling now required in advanced societies. I will have more to say on consent in section 10 below.

Does the 'consensual' non-violent abuse of such children, molested gently within the family circle, cause lasting harm to these children? Embarrassment, sadness, and discomfort (to revert to the NSPCC's list) are present in every child's life abused or not. And abuse need not cause them. And here we should note the salient fact: that it is manifestly in the interest of the family-circle abuser *not* to cause distress; that is what 'grooming' is all about. Some people, I have had to learn, have been upset by my phrase 'molested gently'. I can only reply that what is gentle is not always benign. A pick-pocket does well to be gentle even though he does not do well. And even murder can be gentle, as we saw. To say as much is not to make light of the murders in question.[39]

[38] I quote from an interview with Mr McFadyen on Channel 4 News, 8th July, 2014.

[39] It is very misleading to refer to sexual abuse as a *violent* crime. It is done for effect – a resort to red ink. The Centre for Constitutional Rights,

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I have made two suggestions in the last paragraph. Firstly, that it is not at all unusual for abusers to be a part of the family circle: relatives or friends. This unsurprising finding is exceedingly often underlined in academic studies. Indeed the abuser is quite often a sibling.[40] The NSPCC itself claims that '90 per cent of sexually abused children were abused by someone they knew'. This insistence is the counterpart of the teaching, also insisted on, that rapists are not typically dark-alley strangers. Secondly, I maintained that the experience is often fairly unstressful for the child. That might seem less obvious, but it would seem to be the case. [41]

7.

We should view the harm story with a certain reserve, and seek to control our natural indignation at seeing it questioned.[42] I will argue for this contention under four heads.

Let us first observe that psychiatrists writing about child sexual abuse are not uninfluenced by fashion and ideology. I would expect psychiatrists nowadays to say *very damaging*, although other psychiatrists back in the mid-twentieth century were saying *hardly damaging at all*, at least in many cases. [43] This last may be

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an advocacy group in New York who appear to have the ear of the United Nations, would seem to be a serial red-ink offender, at least to judge by various documents they have put out about sexual abuse on the part of Catholic clergy.

[40] 'More than one in three cases of sexual assault against children are committed by other minors… A 2002 study by the US Department of Health and Human Services found that at least 2.3 percent of children have been sexually victimized by a sibling. By comparison, 0.12 percent are sexually abused by an adult family member'. John V. Caffaro, 'Sibling Sexual Assault is Epidemic', *Washington Post*, November 6th, 2014.

[41] For some discussion and quoted opinion, see Susan Clancy, *The Trauma Myth* (Basic Books, 2009), 56–74. I should remark that the catchy title of her perfectly serious study was something wished on her by her publishers.

[42] If someone argues, against a certain expectation, that the evil of a practice cannot be accounted for in a certain way he will be taken, even perhaps by philosophers, to be defending the practice in question and harsh words will be said.

[43] Philip Jenkins, *Moral Panic* (Yale University Press, 1998), Chapter 5, significantly entitled 'The Liberal Era,' describes the unbothered attitude of psychiatrists in the mid-twentieth century. Jenkins's book, subtitled

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found quite hard to believe. Confronted with the evidence our contemporaries will naturally exclaim 'What were they thinking of!', perhaps forgetting that others will one day say just the same about the times in which we live. Any psychiatrist nowadays bold enough to say that abuse was often quite harmless would of course be most unpopular. The newspapers would be all over it. He might indeed find himself out of a job. [44]

Secondly, with the freeing up of old inhibitions about sex, people are prepared to talk about these things, and psychiatrists must have been seeing more and more cases. However they will have encountered a seriously biased sample. They are obviously much more likely to see clients who have been harmed, or think they have been harmed, by childhood experiences. More generally, those who

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'Changing Concepts of the Child Molester in Modern America', is an exhaustively researched chronicle of unreason. A relaxed attitude was also in evidence in the UK. The National Council for Civil Liberties said in a submission to The Criminal Law Revision Committee in 1976: 'Childhood sexual experiences, willingly engaged in, with an adult result in no identifiable damage ... the real need is a change in the attitude which assumes that all cases of paedophilia result in lasting damage' (quoted by Damian Thomson, *Telegraph*, October 19th, 2012). Tony Honoré wrote in 1978, 'Whether and to what extent … sexual contacts by older people … harm young children is debated. Often, it is said, they are soon forgotten unless the child's parents or other adults attach a great deal of importance to them' (*Sex Law*, 177. Three references). Bishop John Robinson, the Anglican author of the much discussed *Honest to God*, wrote briefly about 'the effect of sexual experience on children' in his 1972 Beckly lecture to the Methodist Conference: 'The Place of Law in the Field of Sex'. He suggested that to introduce the scrutinies and intrusions of the law 'might do more harm than good'. Some research has apparently shown that 'the subsequent parental horror, police investigation, etc' had been 'significantly more disturbing than the offence'.

[44] We should learn from the troubles psychiatrists have had with the notion, first introduced in the 1970s, of post-traumatic stress disorder. For a vivid summary see Gerald M. Rosen, Robert L. Spitzer and Paul R. McHugh, 'Problems with the post-traumatic stress disorder diagnosis and its future in DSM-V', *The British Journal of Psychiatry*, 2008. (Available on the web.) And we might usefully remember how usual it once was to attribute lasting psychological damage not to molestation in early years but to maternal deprivation and how difficult it had eventually been to establish such a thing in the face of critical scrutiny. See the well-known critique of the deprivation thesis mounted by Barbara Wooton in her *Social Science and Social Pathology* (Allen and Unwin, 1959), Chapter 4.

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come forward to tell the story of their abuse, to academic researchers let us say, will be those who consider that they have a more disturbing or arresting story to tell.

Thirdly, we have reason to be particularly cautious in regard to beliefs about sex-related harms. We have been caught out more than once before. Thus, as we know, it was once the widespread teaching that *self*-abuse was harmful, made you mad, made you blind, perhaps caused curvature of the spine. The confidence with which this sort of thing was taught was remarkable. Nowadays no one takes this seriously, though not perhaps in consequence of research findings. And no one, I imagine, will urge us to live by 'the precautionary principle', just in case… [45] Again it had been taken for granted, before the sexual revolution, that pornography – that is to say, the supposedly 'adult' material available at that time, something in truth only suitable for very young children – rendered those adults who were addicted to it more apt to assault others in sexual ways. But this claim was pretty comprehensively questioned by investigative panels both in the UK and in the United States.[46]

And lastly, there is as it happens some research, to all appearances thorough and well conducted, by Rind and his colleagues stemming

[45] Those wishing to consult a Victorian authority on the harmfulness of self-abuse might turn to William Acton, *The Functions and Disorders of the Reproductive Organs*, 1875, by then in its sixth edition, available on the web.

[46] On the effects of exposure to pornography see The Williams Report (1979), largely written up by its chairman, Bernard Williams. The committee noted (6.16) that the United States Commission on Obscenity and Pornography had reached a skeptical conclusion: that 'empirical research has found no evidence to date that exposure to explicit sexual materials plays a significant role in the causation of delinquent or criminal behaviour among youth or adults' (quoted from the US report). The Williams committee, examining this American report in the light of hostile reactions to it, itself concluded: 'that there does not appear to be any strong evidence that exposure to sexually explicit materials triggers off anti-social sexual behaviour'. The legal historian A. W. B. Simpson notes that he and the other members of the committee had to see a huge amount of 'material', and reassuringly suggests that none of them were 'depraved or corrupted' by it (*Pornography and Politics* (Pergamon Press, 1983), 28). These earlier investigators into the effects of pornography, it might be said, cannot have envisioned the kind and the quantity of contemporary porn that is now so easy for children to find. However there has been further research. See for example the Ofcom report 'Sexually Explicit Material and Video On Demand Services' of August, 2011, available online, which comments on the difficulty researchers still have in uncovering evidence of harm caused to children.

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from 1997–8, which claims to show that abuse – let us say of the gentler sort – is characteristically harmless, or to be more cautious, that 'the harm is not necessarily intensive or pervasive'. The article in question took the form of a 'meta-analysis', reviewing the results of 59 previous lower level studies involving college students. It achieved a certain fame.

Once this paper came to notice outside academic circles, it had the unique distinction of being condemned by both houses of the US Congress, *nem. con.* Rarely has good news been so unwelcome. Naturally not more than a handful had seen the paper they were condemning – members of Congress lead busy lives. Anyway the American Psychological Association then took fright and called for the article to be repudiated, although it had in fact been published by *them* in one of their peer-reviewed journals. They sought to make amends by commissioning two critical articles in reply, which they also published. It was wise to invite critical comment; scientific articles in areas of social controversy, even if competently and carefully written, should be treated with a measure of arm's length caution. However a later follow-up study, attempting to correct for shortcomings perceived in the original, largely confirmed its findings.[47] And indeed earlier researchers in England had reported similar conclusions.[48]

The reaction to this academic paper illustrates the difficulty people have in discussing this issue. Such a reaction would not have occurred if the researchers had found that abuse was characteristically harmful. Their work would not have been picked over by hired teams of refuters. We want to hear the harm stressed. As Philip Jenkins reports,

[47] The paper that caused the upset is Bruce Rind et al. 'A meta-analytic examination of assumed properties of child abuse among college samples', *Psychological Bulletin*, 1998. The follow-up study I mentioned which largely confirmed Rind findings is Heather Ulrich et al, 'A replication of the meta-analytic examination of child sexual abuse by Rind, Tromovitch and Bauserman', *The Scientific Review of Mental Health Practice*, 2005–6. Both articles are easy to find on the web, even, with a little encouragement, by challenged US Congressmen.

[48] G. Wilson and D. Cox, *The Child Lovers: A Study of Paedophiles in Society* (Peter Owen, 1983), 129: 'Numerous empirical attempts to demonstrate that lasting psychological harm is done to a child through sexual contact with adults … have generally failed to adduce any such evidence' (three references). The authors here exclude 'physical assault against an unwilling child (tantamount to rape)'. This research might perhaps be considered out of date. But Professor Wilson said much the same recently on Channel 4 News, 11th July, 2014.

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media coverage has 'consistently presented the issue so that it appeared as harmful and threatening as possible'.[49] Politicians seeking office cannot afford to raise doubts. And of course lawyers will do their best to dramatize the harm suffered by their clients. Very large sums have been involved. To be sure the victims themselves will say that they are not concerned about the money; that is rather expected of them and it might sometimes be true.

No one wants to provide excuses to those who abuse children. But this makes it hard for us to assess, in a balanced way, any doubt that might be raised.[50] We should also consider the possibility that it is *because* we think an act is horrible we feel compelled to think it harmful.[51] It is in a way useful to think so. As anthropologist Mary Douglas wrote about the threat of 'pollution': 'the belief that the innocent are in danger helps to brand the delinquent and to rouse moral fervour against him'.[52]

The findings of social research are indeed to be treated with considerable reserve. Yet they must be allowed to count for something, particularly when they tell against what angry people want to hear, and when everyday thought, not excluding what we find in the academy, is so prone to arguing *post hoc, propter hoc*. It might be objected that in raising a doubt we are setting ourselves against the combined judgment of many experienced psychiatrists. But we have reason from the research itself not to be intimidated by this appeal to expertise.[53] Sometimes indeed it is pedantic to demand research

[49] *Pedophiles and Priests* (Oxford University Press, 1996), 15, see also 85–8.

[50] 'Experience shows that "traumatologists" can confuse an open airing of issues with the abandonment of victims'. Gerald M. Rosen and Robert J. Spitzer, 'VA Disability Policies and Posttraumatic Morbidity', *Am. J. of Public Health*, May 2008.

[51] See 'The Myth of the Harmless Wrong', *New York Times*, 30 January, 2015, and the corresponding article, 'The Myth of Harmless Wrongs in Moral Cognition', Kurt Gray, Chelsea Schein, and Adrian Ward, *Journal of Experimental Psychology, General*. 2014, Vol. **143**, No 4, 1600–1615. The message is simple: people who think that a kind of action is wrong pretty well automatically conclude that it is harmful, succumbing (I assume) to the myth that there is no such thing as a harmless wrong. A curious case of earnest research in pursuit of the obvious.

[52] *Purity and Danger* (Routledge, 1966), 166.

[53] 'Numerous studies investigating clinical judgment have demonstrated that when clinicians are give identical sets of information, experienced clinicians are no more accurate than less experienced clinicians'. Howard Garb and Patricia Boyle, in Scott Lilienfeld et al., *Science and*

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evidence. That having one's hand chopped off is a set-back is already evident to anybody. It does not need to be established by careful experimental procedures. Nor does the thought that an abuser will, on the whole, seek not to cause alarm to a child. But it is not pedantic to demand evidence about allegations of long-term effects of sexual assaults in childhood.

Such a demand will be resisted. If a victim claims to have been harmed any skeptical response however mild will be called 'a refusal to listen', the adding of victimhood to victimhood. It is curiously supposed that listening inevitably leads to acceptance. If on the other hand the victim does *not* think he has been harmed, there will be talk of suppression, dissociation, displacement, submersion, fragmentation, removal, repression, psychic distancing, or denial – signs of which might be absent-mindedness, anxieties about one's expenditures, acne, a habit of critical self-appraisal, and (in particular) a concern to rescue others in trouble. When all else fails the notion of harm will be absurdly extended. The following account of 'sexual harm' can be found on an officially sponsored website, *Act against Harm*, explaining what counts as harm for the purposes of the Adult Support and Protection (Scotland) Act, 2007, a law which aims to support vulnerable adults. 'Sexual harm includes any sexual activity that a person does not feel comfortable with, want, or understand'. This extravagant inclusiveness, if not quite thoughtless, might represent the lingering influence of Mill's harm principle: if we want legitimately to forbid something we had better be able to say that it is harmful.[54]

8.

The above remarks can be brief since I have only needed to raise a caution about a received opinion, nothing more. All the same, there may well *be* lasting harm even within the restricted range of cases I

Pseudoscience in Clinical Psychology (Guilford Press, 2003), 18, seven references.

[54] We should distinguish harm from the mere presence, or the harbouring of, a lingering grievance – based on the exceedingly common thought that one has not 'had justice' until the abuser (and perhaps others, the incompetent local police perhaps) have been punished. This is a primitive but unfortunate thought, which in addition tends to darken our understanding of the very concept of justice.

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have had in mind. But now consider: such harm as there is, might arise from the lingering regret or embarrassment or anger people feel in later life when they remember what was done to them. This is a perfectly natural view to take. It is very relevant to our enquiry.[55]

I say 'might *arise* from' because we must keep in mind the difference between the bringing about of regret or anger and actually causing harm; everyone who visits a dentist recognizes that to be hurt is not the same as to be harmed. If someone learns that his mother died in giving birth to him this will doubtless cause him lasting and haunting sadness but one should not think of the information as harmful merely on this account. Would one expect people to be harmed merely by being told that a beloved uncle had inappropriately groped them during childhood? Many people might take such a thing lightly. And regret is not as such harmful. It may even be salutary. And we might say the same about learning to distrust. A child, of necessity, begins in trust, and has to learn to distrust.

I am not in the least trying to make light of the misery that may be caused by memories, some doubtless very horrible indeed. But there will be cases and cases. Anecdotal evidence, such as it is, can work *against* the assumption of harm brought about by memory of abuse. Alan Bennett , we learn, is a 'survivor' many times over. He recently revealed that he was frequently interfered with as a child. 'When I was young, ten or 12, one often found one's legs were touched up by old gentlemen in a mild sort of way. It never got beyond that. … It didn't bother me. I knew it was wrong, but I knew I shouldn't say anything about it because I knew they would get into trouble. But the notion that one would be scarred for life…'.[56]

[55] Susan Clancy argues for example that the harm done depends, or largely depends, on the memory of what was done. (The polarization seen among the 60 'reviewers' of her book on Amazon.com is instructive.)

[56] This is as reported in *Radio Times*, 20th March, 2013. The final ellipsis clearly represents a shrug rather than a cut.. Significantly however, when this material was then reprinted in the *Independent*, their article was headed (italics added) 'Alan Bennett reveals he was "interfered with" as a child, *but he plays down the trauma*'. Trauma? What trauma? The scientific-sounding word 'trauma', which seems to exert a certain fascination, seem to straddle in meaning an unpleasant experience and actual damage and is popular no doubt for that very reason. Compare the account given by Richard Dawkins's of being fondled by his Latin master as a nine year old. 'As soon as I could wriggle off his knee, I ran to tell my friends and we had a good laugh'. Anyone looking for an example of really damaging child abuse, Dawkins claims, must consider the misfortune of being taught

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Children now grow up in a remarkably changed environment. We would need to consider how disturbed our children will be by these memories after they have been overlain by a secondary education of sexting and the porn computer-screen. Pupils nowadays are often quite capable of providing sex-education for their teachers. We might also need to consider cross-cultural evidence. Children everywhere play at being mums and dads. Children among the Nuer, as classically described by Evans-Pritchard, would do so too. And they, as it happens, would sometimes play at having intercourse. Such children might well not be as disturbed in later life by remembered abuse as we might be, we who have grown up in circumstances of greater domestic reticence and privacy. However no one confines their objection to child molestation to such as occurs in our kind of society.[57]

However we need not speculate further. For those molested when they were *very* young will not *have* these potentially disturbing memories, even when the offence is by no means marginal. Those among the very young that we are now accustomed to call survivors will not know what it is they have survived. I myself remember so very little up to the age of five, and perhaps it is the same with you. And the non-existence of all these memories cannot reasonably be put down to 'repression'.[58] Nevertheless, the abuse of the very young is objectionable in just the same way, even when, lacking the memories, they will not suffer the harm allegedly caused by memory.

Indeed, even in the case of children older than five there need be no *experience* of being abused and therefore nothing to be remembered. The Lucy Faithfull Foundation give as an example of sexual abuse: 'inappropriately watching a child undress'. But a child can be totally unaware of being watched, let alone 'inappropriately'. Similarly,

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Catholic doctrines. Some children never recover from it. Space unfortunately does not allow me to reproduce the whole of this article in this footnote. I can only direct you to 'Religion's Real Child Abuse' (Richard Dawkins Foundation web site).

[57] Evans-Pritchard, *Kinship and Marriage among the Nuer* (Clarendon Press, 1951), 56. I should mention here, as it might be thought to tell against me, that it was the combined opinion of eminent psychiatrists Mayer-Gross, Slater and Roth that children should not be allowed to witness their parents 'connubialities', op. cit. p.557. They did not hazard a reason.

[58] The excitement over 'the recovering of memories' well serves to illustrate the irrational thought which seems so often to surround this topic. See Frederick Crews, 'The Trauma Trap', *NYRB*, March 11th 2004, available on the web and indispensible.

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such a child might be quite unaware of being photographed by a paedophile. That might seem rather a small matter, though people are sent to prison for taking or hoarding such photographs. And consider the case of the late William Vahey. Vahey confessed to having abused 12–14 year-old boys all his adult life, working at ten schools on four continents. None of the boys appear to have had haunting memories since he took the precaution of using sleeping pills hidden in biscuits. His activity only came to light when he was arrested for storing photographs of his victims on his computer. It might never have done so. Until then he was remembered with affection. Nowadays he is considered to have been one of the most outrageous of abusers.[59] Lastly, let us remember that some children are known to have little time to live. They will therefore never have the long term memories shocking to the judgment of an older mind. It would not on that account be all right to molest them. It would not even be counted a mitigating circumstance. [60]

9.

As I said, no one wants to provide excuses to abusers. And indeed, in discussing these matters 'one should observe a certain caution in the choice of audience' – as Peter Geach once said in regard to the promotion of rationality.[61] However reliance on the thought that

[59] 'In an FBI affidavit given before he killed himself in March, Vahey claimed "he never hurt any of the boys" as "they did not know what happened to them; they were completely asleep."' (*Telegraph*, 31st July. 2014.)

[60] The mere raising of a doubt about the harmfulness of child sexual abuse in the cases mentioned might seem to deprive us of a useful stick with which to beat the Catholic Church, and to rob us of an effective way of impoverishing it by insisting on compensation for the harm done. As it happens clerical abuse has not on the whole involved the molestation of the very young; it has tended to involve post-pubescent children. Still, the question of harm is important in these cases too. If the harm done happens often to be somewhat notional, people should not be as shocked by stories of clerical 'cover up' as it has become conventional to be. If an academic colleague of mine had become entangled in abusing in such circumstances, and had called on me in distress and shame at what he had done, would I have engaged in 'cover up'? I rather hope so. And this would not have been to make light of his action. 'There is a Russian saying, "For every sin of another which we conceal, three of our own are forgiven."' (Dorothy Day, *The Duty of Delight*, Marquette University Press, 2008, 174).

[61] *The Virtues*, 8.

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molestation causes harm would make the objection to molestation problematical, and this for several reasons.

First, the notion of harm is itself not very clear, a matter we have touched upon. This is perhaps especially so in the case of 'psychological harm'. If I misinform you about something, something it would be useful to know, have I caused you psychological harm? A mind misinformed about such a thing is not in the best condition after all.

Secondly, if the harm in question takes the form of a set-back to health, psychological health let us say, we must face the fact that health itself is a troublesome notion. Are we for example to adopt the definition given by the World Health Organization: 'a state of complete physical, mental and social well-being' – on the ground perhaps that their opinion ought to be authoritative?

Thirdly, where there is harm it is often indeterminate what we are to count as its cause. Was it the ice on the road that caused the accident, or the negligence of those who should have put down salt? It is useful here to remember that in many parts of the world a pernicious belief is prevalent and deep-rooted that girls in particular who have been sexually interfered with are somehow 'damaged goods', a teaching that might indeed be damaging to them. Some of the talk of 'ruined lives' among Western liberals may also contribute to any ruination we actually find.

Lastly, when people say that molestation is harmful it is often a *risk* of harm they have in mind. But it is often all right to do what sets children at risk of harm. Parents, good parents, take their children out with them in cars when this is not strictly necessary for their good. Alan Stein, Professor of Child Psychiatry at Oxford, has recently discovered that children who spend more time in nurseries are more likely to have 'behavioural and emotional problems,' presumably without being molested at all.[62] But it remains possible, I suggest, for a perfectly responsible parent to send his child to nursery school. Parents who separate, it is said, risk causing serious harm to their children. Yet it will also be said that they have a right to separate. Parents indeed innocently risk harming a child merely by being overly-affectionate, for this makes it harder for the child, when the time comes, to break free of its parents and go its own way.[63]

[62] *The Guardian*, 20th Oct. 2013.

[63] In 'What's Wrong with Adult-Child Sex?', *Journal of Social Philosophy*, 2002, the well-regarded philosopher Claudia Card explores the objection we might make to sexual activity with a child, however considerate of its feelings the procedures might be. It might do the child 'a disservice' she explains. The child could be quite overcome with the delight of it

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A stress on harm is the wrong way of making our objection to what the child abusers do. Epigrammatically: the harm is contingent, the objection non-contingent. Any harm done should be regarded as a *further* complaint to be laid at the door of the abuser. Consider the case of abortion. Abortion has deprived many couples, who cannot have children of their own, the opportunity to adopt babies, and this is no small matter for them; but plainly this is never the central objection people have to abortion. Someone arguing against abortion might say something analogous about the claim, often asserted and equally often denied, that abortion tends to cause long-term psychological damage to the woman. Or again in regard to the contention, made familiar by Don Marquis in a hundred anthologies, that the aborted baby loses 'a life like ours'. Consequent harm represents an additional ground for complaint.

People regularly ask when someone objects to what they propose to do: 'Why? Where's the harm in it?' It is not realized that only in certain cases can we suppose that an action of a certain kind can be shown permissible by being shown harmless to others. Actions which characteristically cause no harm can often be wrong – a range of insults or threats, theft of what the owner chances to be better off without, disobedience of rightful authority, the breaking of certain promises, worshipping an idol, telling comforting lies to someone on his deathbed, etc.[64] We need the flag of a phrase: *the insufficiency of harmlessness*. It is surprising how often this insufficiency goes unrecognized. Unless the non-violent molestation of the very young is characteristically harmful to them, we might be asked, how could we possibly object to it, save perhaps on aesthetic grounds? Wouldn't we have to characterize the propensity to object as evidence of a 'a phobia' – in the idiot argot of our day, pretty well universally adopted? But object to it we must. It is very doubtful that a bestializer harms his woolly partner, but few, apart from Peter Singer, would think that that makes everything all right.. Those who still find it difficult to accept that a sexual assault does not necessarily

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all and might 'bond' with the all-too playful adult concerned. Eventually of course such a bond will need to be broken as the child grows up and it can be difficult for it to make the break. Unusually among philosophers, Professor Card can speak from personal experience of the child's point of view. She tells us that she herself was interfered with as a child.

[64] *Attempted* murder is harmless save per accidens. And it is wrong to do what you think it is wrong to do, even when your belief is mistaken and the action is beneficial. But these are special cases, cases of secondary wrongfulness so to speak, showing evil in the will.

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cause harm to the victim and must be characterized as vile is some other way might usefully read John Gardner's well-received essay 'The Wrongness of Rape'.[65]

Susan Clancy remarks 'It is time to develop a stronger ethical position on the matter, one less dependent on the presumption of harm and more dependent on the premise that the act is inherently vile and unfair to the child'.[66] That is surely the sort of thing we ought to be saying. We need however to distinguish what is unfair from what is vile. Unfairness is a problematic notion in this context as I now want to argue. It comes in, but where?

10.

We must now take up the thought that although a child can be *willing* it cannot *consent*. It cannot validly consent as we say. This in itself might be taken to show that sexual interference with a child would be wrong, even if we had no particular reason to believe that the child would be harmed. This is perhaps what Susan Clancy meant by 'unfair to the child'. The prospects of such an argument however are not good.

The term 'child' covers a significant age range. Let us first consider older children, teenagers say, individuals we sometimes prefer not to call children at all but rather students or young persons. They would be supposed to know what's what; after all they live immersed in our unreticent internet world. Indeed they are officially given a voice as a matter of right: this is made plain to the child by UNICEF: 'You have the right to give your opinion, and for adults to listen and take it seriously.'[67] Given such a right, it would sound rather patronizing (as the modern reproach would have it) to insist that although these young persons can give an opinion worthy of respect they cannot consent. And this especially when the sexual activity in question might take so many forms. Our new ethic of equality strives to

[65] Reprinted in his collection *Offences and Defences* (Clarendon Press, 2007). The essay was written in collaboration with Stephen Shute.

[66] *The Trauma Myth*, 185–6. Elizabeth Wilson also raises a doubt about the sufficiency of the harm objection in relation to child abuse in her important article 'Suing for Lost Childhood', *UCLA Women's Law Journal*, 2003, esp. 204–210 (on the web). She does not suggest that there is never any harm done.

[67] Article 12, UN Convention of the Rights of the Child in Child-Friendly Language. UNICEF website.

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make it easier and easier for people of every kind to enter various marriage-like arrangements, and surely we can expect further developments under the heading of children's rights.[68]

Even among undoubted adults valid consent in matters of sex is very often – or perhaps I should say characteristically – 'uninformed'. Hence the judicious advice offered by Mr Punch's to those about to marry. In marriage too there is nearly always a preliminary akin to grooming (flattery, buttering-up, chocolates, etc). And often we find inequality in power, in the sense that a failure to agree would cost one party considerably more than the other. Neither circumstance has been thought by people of good sense sufficient to invalidate consent, even when 'till death' meant just that.

Of course there is a legal barrier in the form of an *age* of consent, but this must always represent something of a local and variable convention. In a contraceptive and in-vitro era it might be thought appropriate to have two ages of consent, involving consent to intercourse and consent to becoming pregnant. Christians might do well to ask themselves how old they think the Virgin Mary might have been when she gave her Yes – the Yes which so changed the world (see *FIHG*, 156). Henry Wansborough, editor of the New Jerusalem Bible, suggests she might well have been about 12. It was customary for girls to be married as soon as they could have children.[69]

However our focus in this paper has been on the more interesting case of the younger child. Here we must argue differently. Joel Feinberg in his treatise on morality and the criminal law raised the significant question: why is a five-year-old assumed to be unable to give consent to 'sexual fondling', since it is not *evidently* harmful. People must have supposed it to be 'harmful in its subtle effects,' the child not being competent to assess the risk. Yet such an invocation of subtle effects, Feinberg maintained, would rely on 'empirical

[68] Consider Richard Farson's 'Child's Bill of Rights'. It has acquired a certain status among equalizing liberationists. Item 7 of his Bill proclaims a 'The Right to Sexual Freedom': 'Children should have the right to conduct their sexual lives with no more restriction than adults.' (Richard Farson, 'Birthrights', reprinted in *The Children's Rights Movement, Overcoming the Oppression of Young People*, Beatrice and Ronald Gross, eds. (Anchor Press, 1977), 327.)

[69] 'When Luther came to translate the salutation of the Angel to Mary, *Ave gratia plena*, he used a popular phrase from the marketplace, equivalent in English to something like "Mary you little dear".' Wittgenstein as recalled by Drury, 'Conversations with Wittgenstein', R. Rhees, ed., *Ludwig Wittgenstein: Personal Recollections* (Blackwell, 1981), 157–8, tense changed.

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presuppositions that have been little investigated and are suspiciously convenient for us to believe'.[70] Feinberg's skepticism is entirely justified, as our earlier discussion has rather shown. However we might still have concerns on the ground of improper invasiveness.

But have we reason to worry on this score? A teenager indeed might have acquired a 'personal space'. But with the very young there would be no such space to be invaded. Parents have innocently taken pictures of their naked tots since the day the camera was invented. Our new ethic of sex, as we noted, makes room for those who have personal attitudes to sexuality and its meaning. A small child however will have acquired no such attitude, nothing of which due notice could be taken. A child which cannot meaningfully consent cannot meaningfully withhold consent either. Small children can certainly show signs of being pleased by this or that, as is already evident in the high chair. And they can also show signs of not minding, or of not much minding. Questions of harm aside, why is it not sufficient to respect such simple responses?

One way in which the consent requirement undoubtedly has a place in the new 'considerate' ethic of sex is this: that unasked-for touching is so often a nuisance or an embarrassment; no one wants continually to be pinched and patted on buses or in the street. But this aspect of the consent requirement seems hardly to have application where small children are concerned. Indeed parents who never playfully pinch, pat or tickle their children must count as abusers for this very reason. Sex has become, as I mentioned, a kind of play, although to be sure a kind of play which for some is almost as serious as football. What could be amiss with harmless play? Are we not *supposed* to play with children? Dress them up in pretty clothes, and not necessarily for *their* delight?

Let us follow up this last thought. Parents are encouraged to immunize their children. However the procedure is encouraged as a benefit to the community in the first instance, rather than to the child, for the child faces a certain risk and might do best to rely on the fact that so many other children are made to face it. The interests of the child are not considered paramount. Yet no one thinks of the child's inability to consent here. In fact the child will predictably show clear signs of displeasure.[71]

[70] *The Moral Limits of the Criminal Law, Vol. 3, Harm to Self* (Oxford University Press, 1986), 331.

[71] Think again of the case of 'organ donation' by a baby. A new-born baby's kidney can apparently be very useful. And here the language of *giving* is freely used. 'It is very rare for babies to donate organs in this

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It might be replied that proxy consent is here given by a parent. Well then, suppose a parent gives proxy consent to a measure of gentle harmless supervised molestation with somewhat minimal bodily contact. There is this charming family friend who has these slightly unusual sexual needs. Nothing would need to be misrepresented in order to induce willingness. The child concerned, we will suppose, is quite used to what happens and is not in the least alarmed at the prospect. There is always a certain amount of laughter and good spirits…

Why would we still object here? Why wouldn't it be sufficient to call for legal safeguards? Isn't that the usual liberal recourse? Talk of 'exploitation' would sound quite melodramatic and ideological: after all, life with a small child would be impossible of one could not take advantage of its weakness. Are we to make a special issue of it just because *sex* is involved? But sex, we are told, is not supposed to raise special ethical issues. That was the essence of the new consensus. Singer, as we saw, even thought the topic too unimportant to be discussed.

We object, surely, because we judge that what is proposed is disgraceful, demeaning, contemptible or disgusting, something in the area of those adjectives – and *not* of course because we, or that man on the Clapham Omnibus, would faint at the very thought of it. Our focus is on the violated child not upon ourselves. It would similarly be comical to suppose that the offensiveness of blasphemy had to do with the upsetment caused to theists. As for the unfairness we mentioned, it can only be for this reason: that advantage is taken of a child's inability to raise just such an objection. It is an objection which invokes the respect which is owed alike to every human being. It is this crucial factor which we will consider in the concluding sections of this paper.

11.

Let us make something of a fresh start. We have talked of murder and of child sexual abuse. We clearly need an improved understanding of these evils. It is here that the work of Elizabeth Anscombe can help us. Can help us *somewhat*, I should say, for matters will remain very problematic.

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country.' 'This child will have done something very generous.' A fiction of consent is here regarded as perfectly acceptable. How can this be? (The quoted remarks come from a BBC Radio Four programme, 'Inside the Ethics Committee', 24th July, 2014.)

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That our understanding of the way human actions are bad was apt to fall short both in regard to sexual ethics and the ethics of homicide was already noted by Anscombe in the mid 1970s. I have in mind a short passage in her article 'Contraception and Chastity' (*FIHG*, 187–88). She was writing in a context both Catholic and unappealing: not the place to launch an insight. I don't suppose that I myself thought carefully about this passage until I re-read the article in *Faith in a Hard Ground* in 2008 when the book appeared.

It would be a mistake to suppose that this article could have nothing constructive to say to someone who took a different view of contraception, though what she wrote even on this topic is of more value than people mindlessly in tune with the times would care to admit. Her article is of interest for our present discussion because failings in chastity and injustice in respect of taking life – which I have been considering together in this essay, initially more by accident than by design – were said by Anscombe in the course of her discussion to be related (*FIHG*, 188). This is perhaps unexpected. People often suppose that the objection to abortion comes under sexual ethics. Absurdly, of course. No one would say such a thing about the related objection to infanticide. But if Anscombe was right, there remains an oblique connection none the less.

Elizabeth Anscombe did not talk of explanatory gaps quite as I have done. Instead she wanted to distinguish between two kinds of virtue. All virtues are helpful and needed, she said, but some are not *just* helpful and needed. We have to understand *them* as virtues in a richer way. They have two aspects. In fact we are likely to come to appreciate the need *by* perceiving this other aspect, which is something more immediate – though I am here rather conjecturing what Anscombe would have said (see *FIHG* 200). These not-merely-helpful virtues are chastity and justice – more exactly, that element of justice which concerns the sanctity of life, as distinct, say, from the justice of honest dealing.

Anscombe elucidated the not-merely-helpful aspect of these virtues by making use of two notions, notions which might initially cause anxiety to any plain and honest Joe.

Firstly, she was prepared to talk of mystical value, and indeed of mystical perception and mystical virtues.[72] Any anxiety one might have in regard to the word 'mystical,' she rather suggested, might be mitigated by a consideration of the way we respond to the dead. It is a perfectly everyday and unparochial perception that the dead

[72] Feinberg, to return to his discussion, talks of 'pre-rational' judgment (332), but does not elaborate or index the term. An unexpected and transitory congruence of mind perhaps.

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are dishonoured if their bodies are treated simply as refuse (*FIHG*, 187). And this is not because of the danger of spreading diseases.

She might usefully have mentioned necrophilia. It is, I imagine, a rare condition. It is hardly a topic of much public concern. Peter Singer has not yet written in praise of it. Yet *academically* the way we understand the objection to it is revealing. Martha Nussbaum for example, seemed to have been persuaded rather against her will that it is reasonable not only to condemn but to prohibit sexual interference with the bodies of the dead. She will certainly not run into flak from her colleagues for saying so. However she evidently does not wish to invoke our ability to perceive something *as vile*. That, one imagines, would have raised problems. Rather she hastens to mention the harm caused. 'We view these [necrophiliac] wrongs as wrongs primarily on account of the harm they cause to relatives and loved ones of the deceased.'[73] The appeal to harm affords a thin life-line to contemporary liberal orthodoxy.

Secondly, Anscombe wished to make use of a concept of connatural knowledge by which we perceive how things are in this area.[74] Connatural knowledge will be knowledge we have because of our individual characteristics. Much knowledge, she explains, is not like this. If I am taught that 2 + 3 = 5, or if I know that it is raining outside the kitchen door, my knowledge will *not* be connatural. Nor will the knowledge stored in libraries. All *this* knowledge is in a way impersonal. That is to say, another individual standing in my shoes would be

[73] Martha Nussbaum, *Hiding from Humanity* (Princeton University Press, 2004), 155. These harmed relatives and friends are regarded here as the *owners* of the bodies affected, and if there are none of them extant, the state is deemed the owner: corpses are then like respected public buildings, items 'that we have agreed as a society to protect' (155). Yet this is not by any means the whole account, as evidenced by her use of 'primarily'. There is another reason for prohibiting sexual interference, which turns on a failure to obtain consent (156). True enough, a woman might have given consent to be treated in this way after her death. But Nussbaum, I suspect, would not want to rely on that. Then was then and now is now. Intercourse even within marriage must surely be consented-to each time: there can be no simple-minded relying on the marriage vows. And the dead manifestly lack any opportunity to change their minds. (Nussbaum does not consider the possibility that necrophilia might be defended. For some people might be hated by their loved ones, who might indeed be glad to sell 'their' body to necrophiliacs. Surely, we might say, people may do what they like with their own bodies.)

[74] First mentioned by Anscombe in 'Authority in Morals' (*CPP3*, 50, unindexed).

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similarly placed in relation to it. By contrast, if I know what it is like to be lonely, or what it is like to be frightened in the dark, this would count as connatural. I may indeed read a description of these experiences, but I will only recognize that these descriptions hit the mark if I already have personal acquaintance with the loneliness or the fear.

The topic of connatural knowledge is important for our discussion because there is said to be this kind of knowledge connected with the particular virtues we have acquired. If I have acquired the virtue of honesty, for example, I will have a nose for what honesty requires. And this in turn will affect my actions (*HLAE*, 60). My judgment, if correct, will be an expression of connatural knowledge. There will of course be clear cases of dishonesty, but often the decision rests with a kind of perception as Aristotle says, *Nicomachean Ethics,* 1109b – hence my reference to 'a nose'. We must judge, without a rule to go by but simply by considering a few examples, 'according to what is reasonable'. (Aristotle as cited in 'Modern Moral Philosophy', *CPP3,* 39). Connatural knowledge, we should note, gives us the *that* but not the *why* (*FIHG*, 200).

It is by connaturality that we perceive a certain dishonest action as *mean*, let us say (*HLAE*, 60). Anscombe's talk of perception and recognition are significant. Consider the descriptions *disgusting* and *shameful*. They are superficially analysed by commentators – as of course, notoriously, is *love*. People simply think about the emotions, and forget the active, judging, part of man. What counts as disgusting conduct is what it is *appropriate* to feel disgust about. We might make an analogous point about the description 'hateful'. We have to do with a question of judgment. People recognize this when they talk about 'degrading treatment', let us say of those dead bodies. To say of certain conduct that it is *not* disgusting is not to report or be moved by the absence of a feeling: that is especially obvious. Naturally if there is to be knowledge and perception there must also be the possibility of mistake and illusion; perhaps here a rather troublesome possibility.[75]

12.

Let us now consider in turn these exceptional virtues, the virtue of chastity and the virtue of justice in relation to murder. We need not

[75] I do not discuss the legal aspects of what is judged degrading, let is say the merits of the Buggery Act of 1533, surely Thomas Cromwell's most significant contribution to English law.

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insist of course that these are the only virtues which are exceptional in this way. But they might be thought to be the virtues we are especially prone to think badly about.

Chastity tends indeed not to be thought of as a virtue at all. So we might begin by considering it in its ordinary, nonexceptional, aspect. Here it will be characterized as needed – in the way courage is let us say, or tidiness, or honesty. All this might seem strange to those accustomed to the vulgar use of 'chastity', to mean merely, and doubtless mindlessly, going without. We are of course familiar with the similarly mindless, impoverished, talk of temperance. Chastity, unvulgarly understood, will be good sense in regard to sex – if only we could recognize its demands. Contemporary sexual ethics in its revised standard version might possibly find a place for such a virtue. Manifestly, we have to take care not to be dragged about like a slave. And the danger might be considerable. Looking back on his sexual life, Kingsley Amis is alleged to have remarked 'it was like having been chained to an idiot for 50 years'. Or on a different plane, a respect for chastity within the community might be thought of as *communally* beneficial. We are perhaps invited to think of the misery, as things stand, of deserted wives (*FIHG*, 187–8).

The concept of chastity in this sense was of course distinguished by Anscombe from the kind of chastity which is the subject of a vow taken by particular individuals, alongside poverty and obedience, and which is considered to be the giving up of the perfectly good for the even better. However, the two notions of chastity were she says related. 'I think one has to know about it [chastity in the narrow sense] in order to appreciate the teachings of Christianity about chastity in a wide sense' (*FIHG*, 173). Chastity both in the wide and the narrow senses calls for a certain 'purity of heart' (*FIHG*, 212), something Anscombe recognized as difficult to characterize. [76]

Chastity as a virtue would, in this ordinary aspect, be governed by an Aristotelian mean, and where there is a mean there is such a thing as 'too little'. In this respect it would be just like so many other virtues. Chastity in marriage could therefore make an unexpected demand, a consideration of which could help us to understand it *as* a virtue. As Anscombe said: 'We ought to remember, what isn't always remembered, that insensibility and unjustified abstention is

[76] Mention of Christianity in connection with 'the giving up of the good for the better 'can mislead. The value of virginity was not something with an exclusively Christian or Biblical root, Anscombe said. Even the Greeks were aware of it (*FIHG*, 210).

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also a sin against moderation, and is a defrauding of one's partner'(*FIHG*, 190. 'And furthermore' rather than 'and hence' I assume). Rationality demands appreciativeness. It is as if there were duties of delight.[77] Of course, in regard to certain virtues error by excess is more likely than error by defect, as Aristotle himself recognized. Furthermore, according to Anscombe, mere failure in moderation in either direction is the least of sins against chastity (*FIHG*, 210).

However chastity, as we said, is also considered to be a special virtue. We cannot simply be concerned with moderation (*FIHG*, 210). There is a further demand, hinted at perhaps by that curious reference to purity of heart. Chastity though useful, would not be merely useful, Anscombe remarks.[78] Aristotle had perhaps already seen that a failing under the broader heading of intemperance could be something other than missing the mean. For he mentions, as an independent requirement, the need to avoid taking delight in what one should hate (*Nicomachean Ethics*, 1118b25). He does not elaborate. Was he too reticent? Or just too busy? But we are no doubt applying this thought when we say that there is no such thing as a properly moderate child-molester. And here we are not simply thinking that molesting might be a distraction from the business of life or become addictive like cocaine. There is a dishonouring of the body, as we saw in the case of necrophilia.

For Anscombe, not every serious sexual fault would be wrongful under this other-than-merely-useful aspect.[79] By contrast sexual

[77] The phrase comes from Ruskin, *Modern Painters*, Vol. II (George Allen, 1906), 148. Ruskin may not have had sexual delight in mind. He appears to have not been very capable of it. Deuteronomy, so often castigated, is attractively humane. 'When a man hath taken a new wife, he shall not go out to war, neither shall he be charged with any business: but he shall be free at home one year, and shall cheer up the wife which he hath taken'. Compare the stiff opinion of Cicero that 'sensual pleasure is quite unworthy of the dignity of man,' (*De Officiis*, I, 30).

[78] In my exposition I talk of usefulness. Anscombe's choice of the adjective 'utilitarian' in this connection is unfortunate. As individuals we all need the virtue of courage. Collectively, we need people to pay their bills without undue delay. The matter in either case is transparent. But this reference to need has nothing particularly to do with maximizing-the-good, or with 'satisficing' in this regard, or with thoughts of an impartial concern for the welfare of every sentient being.

[79] Adultery, perhaps surprisingly, would seem to be a case in point. The avoidance of adultery is mentioned by Anscombe alongside our duty not to steal or 'to keep a rule of the road where there is traffic'(*HLAE*, 266).

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abuse, as is very evident, is recognized as hateful and not just harmful, as intolerable rather than contrary to public policy. We will return to consider this shortly. Meanwhile we need to turn to the other-than-merely-useful aspect of justice in relation to murder. The story here is altogether more problematic.

13.

We human beings are said to have this mystical value we have talked about (*HLAE,* 260). Our thoughts about murder have to take this into account. Far away people in Patagonia have this value we must assume, just like someone across the street. Distance does not lend disenchantment. And of course the toddlers in our midst also have it. In Anscombe's view we detect that something has this value largely by connaturality, as mentioned above.[80] Someone who has the virtue of justice will recognize its presence even if he does not *talk* in terms of value (*HLAE*, 63). To be sure, those of us who lack the virtue may also have some inkling of it (*HLAE*, 66).

But why *mystica*l value? we might ask. We are rather left to answer our own question. Something would have to be said, for many difficulties will arise. If it is the loss of value which concerns us, value that is to say as rather naturally understood, how could it be wrong to kill one patient to save two? Why indeed wouldn't killing in such circumstances be required? And why would we see a difference between killing and not rescuing where the loss would be the same? How indeed could it be all right for a doctor to take early retirement – to cultivate his garden when he could be saving lives? And how could it be all right for people, clergymen perhaps, to choose *not* to marry and have babies? Why again would we single out for condemnation the killing of the innocent, in a war let us say? Are they more valuable? And what about those justly condemned to death. Are they worth less?

It is particularly appropriate here to consider Anscombe's remarkable two-pager 'Who is Wronged?'(reprinted in *HLAE*). This paper

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Adultery as such, even if always wrong, would not, we may suppose, be hateful in the way lasciviousness is so often recognized to be (*FIHG*, 188) – as recognized for instance by G. E. Moore, alongside cruelty, *Principia Ethica*, 209–10.

[80] I am not sure how this comes about. It looks as if we first recognize our own mystical value and hence assume that others have it too. However I know of nowhere where Anscombe says such a thing.

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quite undermines a natural assumption: that where the choice between saving the many or the few has to be made, all of them being, let us say healthy and virtuous twenty-year olds with no dependents (in case any of that is thought relevant), the larger number *must* be rescued. It does not occur to her to consider the possible loss of aggregate value.

Christians who sincerely recite the Creed would face a problem all of their own, for they believe in the resurrection of the body. When someone gets killed he only ceases to exist as a man – that is to say as a living human animal, body and soul – for a comparatively short while, a bat of an eyelid in relation to eternity.[81] The loss of value would therefore always more or less instantly be made up, and not by the compensatory coming-to-be of something else. Christianity, we might say, may stress the objection to murder but has a special difficulty in accounting for it.

The appeal to a special variety of value might enable us to avoid all these problems. But does it? Can it do any work? Do we really have an answer to many of the difficulties just raised? Why wouldn't it be all right to kill one mystically valuable person in order to save several mystically valuable people? And there would be new problems. I expect it will be said these days that each of us has the same mystical value. I wonder how that could be known?[82] If a dead body is supposed to have a mystical value, as is rather suggested, how could this be when we consider it all right to destroy it by abandoning it to worms or consigning it to flames. We face a more radical question still. Would mystical value be something we would need to take account of, or a variety of value of little human interest? Could we say with a shrug 'It is only of *mystical* value'? and turn to think about something of greater moment? Would a concern for mystical value be intelligible at all? [83] We can hardly just be told that the very fact that the value is mystical simply cancels all such presumptuous and inconvenient objections.

[81] A man is kind of animal, let us say a rational animal. Aquinas (and indeed Augustine) taught that a man's soul is not *him*. See the passages discussed in Anthony Kenny, *Aquinas on Mind* (Routledge), 1993, 136–9.

[82] When Miroslav Bulesic , murdered at the age of 27, was beatified, Cardinal Angelo Amato is said to have said that although every life is precious beyond price, Fr Miroslav's life, as a good man, was 'twice as priceless'. *Catholic Herald*, 1st October 2013. That rather illustrates the difficulty we are in.

[83] Several pages of Anscombe's book *Intention* take up the question: what can intelligibly be said to be wanted (Blackwell , 2nd ed., 1963, 67–72). An issue of this kind surely arises here.

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And now let us consider the claim that we have a connatural ability to detect this special kind of value which humans have. A capacity, we would surely insist, stands in need of a test of its presence. Didn't we once criticize G. E. Moore's appeal to a special capacity, an intrinsic-value-detecting capacity, on just this ground? 'Intrinsic value' had to be revealed by the exercise of this capacity or not at all. Yet there would be no way of telling who had this capacity, and who did not. No way of telling who had it in a high degree. No way of telling whether a consensus merely represented an illusion visited evenly upon all. And so on. We were offered no independent test.[84]

There are even suggestions in Anscombe's writings that this mystical value, by contrast with let us say, the monetary value of a house or the use value of a chemical, is something deemed rather than discovered. 'In Christian teaching a value *is set on* every life' (*FIHG,* 171), italics mine. Again: 'And because of this potentiality [of knowing God and not though a glass darkly] every life, right up to the last, *must be treated as* precious' (*FIHG,* 173, italics mine). Admittedly where a body of belief is treated, in the manner of Quine, as a web, the difference between what is deemed and what is discovered is somewhat blurred.[85]

14.

All this is pretty discouraging. But we might be helped in some degree if we return to consider what we are to say about the sexual molestation of children. When we object to the molestation of children isn't the not-too-clear notion of dignity – and of the respect or reverence due to it – more helpful than the even-less-clear notion of

[84] Could the fact that someone merely clever might also be able to see without connaturality what is seen by the honest person connaturally (*HLAE,* 60) provide such a test? See also *HLAE*, 66 (the end of the article).

[85] Sometimes in Anscombe's writing, there is no suggestion of deeming. The existence of a living man, his being a man rather than an ex-man, is said to have value, where this is offered to us as a truth, there before us to be acknowledged. And significantly one would have to say the same about a tree or a slug, and perhaps about sticks and stones. So long as they exist they have the good of existence (*FIHG*, 140, See also *Summa Theologica*, I, Q20, A2). It is possible that this value would count too as mystical. But if so that would seem quite to undo the distinctiveness of mystical value. Characteristically, the destruction of items of this value would be of little account.

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mystical value? There is even a *metric* advantage in talking of dignity rather than value: we hardly likely to suppose that dignity of man is greater the more men there are.

Why are the memories of a victim bad, and bad in a particular way? Surely in large part because they are memories of a violation, an insult. Elizabeth Anscombe makes constant references to human dignity, and sometimes links dignity and value (or worth) in the same phrase.[86] Perhaps we must understand these notions as one. It seems quite possible that an understanding of the way in which some actions – judicially framing a man, deliberately killing the innocent in a war, etc. – are always bad is bound up with this notion of human dignity.

We should expect to find resistance to the recognition of human dignity in this way. Objection to bestiality, let us say, will not be couched in terms of the behavior compatible with human dignity, but will mention unkindness to animals, or the impossibility of informed consent, or the thought that if people have sexual relations with animals they will go on to rape or molest people.[87]

Once again, this invitation to consider dignity might seem unpromising. Even more so: the purity of heart that Anscombe mentioned, where we are offered hints only. Nothing would seem to be solved. An appeal to what dignity permits or requires appears sufficiently indeterminate to be open to everyone in the pursuit of just about anything. One simply has to assert the matter in a firm voice. Peter Singer ended his article 'Heavy Petting' by saying that bestiality need not be 'an offence to our status and dignity as human beings'.[88] So there we have it. And what about the molestation of children? A reverence for dignity would simply require the honest integration of one's very own sexuality with one's subsequent conduct, combined no doubt with a measure of patient and considerate courtship.

Naturally this is something of a setback. But we can usefully narrow our focus by thinking of other allied descriptions – that use of *violation* say, where it is an individual rather than a regulation which is violated. Think of the description *degrading* we mentioned

[86] Four times in her article 'The Dignity of the Human Being' (*HLAE*). And in another article in the same volume we have '… has a connatural knowledge of the worth of a human being, of the dignity of human nature' (*HLAE*, 63). That comma rather suggests '… or in other words'.

[87] 'Alaska and Florida consider bans on bestiality' (AP, 21st March 2009).

[88] 'Heavy Petting,' *Nerve*, March 12th, 2001.

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earlier: we think of inhuman and degrading treatment in a prison perhaps; or the thought that in the pornography of our time 'nothing is considered too degrading for women' – and surely, we might add, for men too.[89] We seem to have a rough grasp of what is being said. Furthermore we can see that such violation and inhuman treatment is not essentially connected with harm. Violation need not harm nor harm violate.[90]

Violation is what is disgusting, demeaning or contemptible – to return to the disjunction I employed the end of Section 10, pointing to the kind of consideration in question. A certain vagueness here seems unavoidable. But let us at least set one boundary: in regard to sexuality at least the disgusting, demeaning or contemptible is not at all the same as the unusual. Anscombe for example would count contraceptive practices as demeaning though they are quite the norm. If on the other hand intercourse is not possible within a marriage unless one party has its ears pulled by the other, this would be most unusual, not to say kinky, but Anscombe one assumes would not be objecting to it (see *FIHG*, 185, 207). Dignity in this context, I suspect, is a concept we home in on, rather than find already there in full view. In this respect it is like the concept of validity in logic, by contrast say with the concept of harm, problematic though it is.

This appeal to dignity will only work for us if we can at least sometimes detect such appeals to it as is it is right to reject. Lord Chesterfield said of intercourse that there was something ridiculous

[89] 'The Truth About the Porn Industry', *The Guardian*, 2nd July, 2010. The remark is attributed to Gail Dines. The stress on women in particular must come from a fear of appearing 'conservative': as if it were fine to be disgusting so long as one was not discriminating. The Yale Philosophy Department's introductory web-page tells us: 'The Department takes concerns about sexual misconduct *and other forms of discrimination* very seriously' (italics added). One must presume that this was thoughtfully written, and endorsed by a number of philosophers.

[90] Ronald Dworkin, in an interesting late section of *Life's Dominion* headed 'Dignity' (Harper-Collins, 1993) claimed that to be treated with indignity was to be harmed in a special and important way, and that to treat oneself with indignity was a corresponding sort of self-harm (235). This last could properly be called 'self-betrayal' (237) and one could be quite unconscious of it (235). He clearly thinks this kind of harm to be quite independent of distressing symptoms or subsequent handicaps. We need not quarrel with this extension of the notion of harm. It might even be called 'mystical harm'. Our discussion hitherto has concerned the unextended notion.

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about it, and his opinion is perhaps borne out by the fact we consider it appropriate to have intercourse in private rather than in a peep show. But it would be even more ridiculous (though not impossible[91]) to condemn intercourse. Wittgenstein found it natural to regard with awe and reverence the act by which the human race is perpetuated.[92] Anscombe spoke of 'the dignity and honour of human sexuality rightly conducted' (*FIHG*, 198). We might follow them, only pausing to wonder what 'rightly conducted' might amount to. We will of course have *some* idea.

This notion of dignity might be just what we need in our endeavour to understand the objection to murder. To be sure, it might be thought misleading to dwell on this notion, insofar as it involves respect. For if murder is to be characterized as an offence to dignity in the relevant sense then it will be an offence to dignity to murder in ways thought to be supremely *respectful* to the victim, let us say by choosing him as especially worthy to be offered in sacrifice to some god. What is degrading and inhuman need not be perceived as such.[93]

The fact, if is a fact, that we need to invoke dignity both in connection with murder and molestation, and no doubt with other kinds of bad conduct too, is a strength; different clues seem here to point in the same direction.[94] We might also suspect that considerations of dignity and its violation will help us understand how there can be kinds of action which are always wrong. I should stress once again that we are here more concerned with the search for understanding

[91] …though not impossible. The Manicheans took this view (*FIHG*, 174).

[92] M. O'C. Drury, in R. Rhees, ed. *Ludwig Wittgenstein*. 162.

[93] Talk of *death* with dignity is especially unfortunate and confusing. I have sought to explain why in 'Death with Dignity', *Hastings Centre Review*, 1997.

[94] '…with other kinds of bad conduct'. This talk of murder and molestation should not lead us to think that violation is essentially concerned with respect for the body. 'If a state makes it illegal to teach some men to read, that is also an offence to human dignity' (*HLAE*, 70). Anscombe makes interesting reference to mystical value in her remarks on the recognition afforded by being allowed a vote, even when in practice one's vote is never in the majority (*CPP3*, 124–5. Mary Geach drew my attention to this passage). This does seem to involve a recognition of one's dignity. Anscombe here significantly corrects herself, preferring to say on second thoughts that such recognition is 'a value' rather than saying this it is 'valuable'. I should add that Anscombe did not believe democracy to be the sole legitimate form of government (*CPP3*, 123).

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that with justification. We are not hoping to rest our convictions about murder and molestation on these insecure foundations. We are linking our convictions to others in the web of belief. I have argued above that 'harm' is an unfortunately indeterminate notion. And, so too, as we have said, is 'dignity'. But the notion of harm was there supposed to be doing the heavy lifting.[95]

15.

Anscombe claimed that our connatural understanding is able to impress upon us this idea of human dignity, this special, and if you like mystical, notion of dignity, the dignity of man which belongs to every human being and does not have to be achieved or earned in any way (*FIHG*, 198).

It is the one 'impregnable equality' of us all (*HLAE*, 67, 72). Equality in respect of human dignity is meant seriously. I do not say 'in respect of dignity' tout court, since other beings might have a dignity greater than ours, as indeed Anscombe herself must have believed. And of course (as 'honour thy father and thy mother' reminds us) we do well to manifest especial respect towards certain human beings.[96] But at least we all enjoy this *basic* equality. Even molesters are deserving of this honour, despite the fact that they fail to honour others. And we must say the same about murderers. Capital punishment, if and when permissible, should not simply be a matter of *ecrasez l'infame*.[97] No one can be regarded as 'unworthy of

[95] If dignity were foundational, rather than something invoked by belief-in-search-of-understanding, we might have to consider the possible dignity of other organisms. Think of the frivolous names people tend to choose for their pets – most disrespectful to them. Or think of flea circuses – a flea is surely an end in itself. There is a rich field of enquiry here. The perceptive Martha Nussbaum, always in tune with the times, urges us to recognize 'a wide range of types of animal dignity' (*Frontiers of Justice*, Harvard University Press, 2006, 327). As for plants, it is surely an offence to the dignity of a box tree to have it clipped into the shape of Mickey Mouse.

[96] And towards one and the same individual in *different* ways. Toscanini: 'When I think of Richard Strauss the musician I take my hat off. When I think of Richard Strauss the man I put it on again'.

[97] See Anscombe's strictures against making someone a 'vile spectacle', *HLAE*, 69–70. And compare Kant's comments that 'there can be disgraceful punishments that dishonour humanity itself' such as quartering and mutilation, and that punishment must 'be freed from any mistreatment that could make the humanity in the person suffering it into something

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life'.[98] We must in particular respect the lives of the very small – and of course of the far away, those who, as it were, *look* very small from where we stand. We remember how people on the ground appeared to Harry Lime from the top of the Ferris wheel. Those 'dots which might stop moving, forever'.

The made-up phrase 'moral status,' always somewhat suspect, straddles the sense in which a magistrate has dignity and the sense in which everyone has it. If we are bound to respect the king, the magistrate or indeed the tennis umpire, this is a moral response to the status they have, the dignity of their office. We should not be having egalitarian anxieties over this. We are equal in one way and unequal in another, and no one should be surprised at that.[99] *Human* dignity is what one only has to be a human to have. Indeed one must respect one's own dignity as Kant vividly realized. Here there can be moral failings *akin* to injustice which are not wrongings. An abuser dishonours both himself and his victim. I do not of course say that one must *stand on* one's dignity since this might suggest a pretence to be unlike other men. Respect for dead human bodies I take to be secondary, a fence around the law. A dead man is not a man.

We live at a time when there is much talk of 'inclusion' combined with an unwillingness to accept it. When Nelson Mandela died, Pope Francis sent a telegram praising his 'steadfast commitment … in promoting the human dignity of all'. He cannot have known that Mandela had introduced to South Africa 'one of the world's most liberal abortion laws' (in the admiring words of the *New York Times*, 8th November, 1996). The thought that a restricted view of human dignity, confined to those who are, let us say, 'self-aware' from time to time, would, in view of this restriction, be more believable is I suspect an illusion. It is hard to claim that although every

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abominable'. *The Metaphysics of Morals*, Mary Gregor, trans. (Cambridge University Press, 1991), 255 and 142.

[98] The phrase made famous in 1920 by the eminently respectable academics Binding and Hoche.

[99] 'For the Catholic Church in the nineteenth century, all members of society have dignity, but their dignity consists in their playing a role appropriate to their station within a hierarchical social order…', Michael Rosen, *Dignity* (Harvard University Press, 2012), 49. If this means that the Church did not have (or did not yet have) the basic conception of equal human dignity we find described in Anscombe's *FIHG* I can only say that his quotations hardly bear this out. That said, there are many good things in Rosen's book.

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disabled individual has this dignity (but of course…) a *developing* individual might lack it.[100]

The intellectual attractiveness of the inclusive claim means that those who also wish to follow the convenient teaching that abortion is somehow a right must strain to assert that an unborn human child is not a human being, if necessary in some supposed 'evaluative sense'. Ironically, this desperate measure might be of little avail. For human dignity might naturally be considered to extend to certain human entities, organisms, that are neither human beings nor parts of human beings, as indeed Elizabeth Anscombe thought with respect to human zygotes. Human dignity would not be something that *only* human beings – 'men, women and children' – have.

It is illuminating in connection with child abuse in particular to note that we cannot be *deprived* of our dignity. If the sexual abuse of a child is vile this cannot be on account of its 'lost innocence'. For it is just as wrong to abuse a child that has previously been abused, whereas no one can ruin what is already ruined.[101] There may be such a thing as lost innocence but this is not it. Talk of 'defilement', or of what is 'degrading', though appropriate, can lead one astray in the present context. It suggests that something can be done to one which robs one of one's dignity as a human being. One can of course be robbed of one's *perceived* dignity. Kent, returning in disguise to the court of King Lear, found that he had been robbed of it. [102]

We should observe that respect for dignity is only secondarily a matter of respecting rights. This is obvious if, as we suggested,

[100] Rawls could only achieve a modest degree of inclusion by *stipulating* that children are to be 'counted in'. *A Theory of Justice*, §77, 'The basis of equality'. Avoiding embarrassment by adding emergency ad-hoc extensions to one's explanatory account weakens any theory.

[101] Child sexual abuse 'is the robbing of something uniquely precious – the child's freshly minted, untarnished outlook on the world'. This represents 'perhaps the most unforgivable violation of all – next to the taking of a life'. So say Jon Silverman and David Wilson in their *Innocence Betrayed* (Polity Press, 2002), 48. I suggest that this should read '… is the removal of the child's illusory outlook on the tarnished world, which is no violation at all but rather a blessing.'

[102] Much of Steven Pinker's article 'The Stupidity of Dignity' (*The New Republic*, May 2008, available on the web) takes dignity, unstupidly considered, to be a matter of how one appears to others. 'Dignity', he says 'is skin deep'. He cites two purported examples of dignity-failure, 'licking an ice cream cone in public' (a suggestion he derides), and 'getting out of a small car' (a suggestion which he then, rather oddly, adopts).

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people are to respect their *own* dignity. No one can be said to infringe their own rights. And people cannot *waive* the respect that others owe them – in the way it is possible to forgive a debt They can object to degrading treatment on account of its being disgusting, but they cannot render it un-disgusting by not objecting to it or by welcoming it. This is a matter of public, and not merely individual, concern.

This idea of the dignity of man is not simply a conceit. Everyone is set on a dead level with the most contemptible of human beings; it is not only the respectable who are respectable, as we might say. Moreover the idea is perfectly compatible with the thought that humans are of lowly rank in the chain of being. And it can also live alongside the view that we are made of crooked timber, as Kant who had such a sensitivity to human dignity himself taught. Nor is there any guarantee that everyone would always want their own dignity to be respected once they realize what that might entail. Thus a man might prefer to be treated than punished when a respect for dignity would argue the other way. As we can see from this example respect for dignity does not always require us to treat others as we would like to be treated ourselves.

16.

The fact that humans have dignity in this sense – have this *tremendous* dignity (*HLAE*, 268) – cannot be regarded as a brute fact, to be believed *because it is there*, like Mount Everest. We should expect there to be a further story, a further context, if not as ground as elucidation. It would doubtless be relevant to say that humans have a rational nature and that reason is an active power and is not just 'the slave of the passions'. But this in itself seems insufficient as an explanation; it clearly invites further questions. As a conviction this view of dignity has been quite unusual in human history; we should not rule out the possibility that our religious inheritance lies at the back of it, not of course just causally, but rationally. This would be a most unwelcome suggestion for many. I talk about a particular inheritance. We should never ask 'Can there (rationally) be morality without religion?'. Rather we should ask 'Can there be *this* morality without a religion of *such and such a kind*?'. Anscombe (*HLAE*, 269–70) talks of a religious attitude to life, not necessarily connected only with some one religious system, which recognizes that humanity is to be reverenced.

Particular trains of thought here are likely to be unsatisfactory. We could hardly call upon the popular idea that everyone is equally loved

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by God, for who could have a reason to believe that? It is contrary to all appearance. And Christians in particular will believe that the divine Christ especially loved his mother Mary. Scripture could only be made to underwrite the story of equal love by those who very much wanted to find it there. 'Esau, I hated' would not be allowed to count. And in any case, how would love confer dignity at all?

Again, it would hardly be relevant to mention the bare fact that people are made in God's image. Dignity is rarely if ever preserved in a copy of something which has it. A jelly-baby entirely lacks the dignity of a baby. We get nearer to an understanding, if not very near, by considering the respect in which we are like the divine. Anscombe would want to mention here the time dimension: the possibility, the astounding possibility, always open to each since time allows for development, repair and cure, of eventually sharing in some measure God's nature, a sharing which is what we are created for (*FIHG*, 173).

Naturally, no one would be forced by reason to admit such a thing. Reason forces us rather less often then we tend to imagine. People might prefer to say that the further, and thankfully non-religious, account of human dignity happens to be beyond our ken, or at least beyond our present ken. Or they might take refuge in pretending, positing or constructing. Martha Nussbaum for example claims to be *constructing a public myth of equal humanity*.[103] No doubt she is following the example of Plato's in regard to the metals, but in a way to suit her philosophical party. The youngest humans will not of course be included.

Elizabeth Anscombe, rather surprisingly, joins hands with Kant, not indeed in regard to the talk of 'merely using', a uselessly broad category, but in regard to this notion of dignity.[104] The fact that there is an aspect of ethics to do with dignity makes it a little more excusable for Kant to have said that morality is the same for all rational beings, a claim which has been so disastrously misleading.[105] It

[103] Nussbaum, *Hiding From Humanity*, 17. In *Frontiers of Justice* she is tempted to be bolder: 'There seems no respectable way to deny the equal dignity of creatures across species', she says, finding the idea 'attractive', 383–4. Perhaps she draws the line at actually constructing this myth.

[104] Or perhaps I should say, a useless category unless interpreted in terms of dignity. 'Merely disposing of' might be the significant phrase. See *HLEA*, 68.

[105] That moral considerations are the same for all rational beings is listed no. 6 in Anscombe's syllabus of errors, 'Twenty Opinions Common among Anglo-American Philosophers' (*FIHG*, 67).

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would be important to be able to say, as I think we can say, that Kant's use of the notion of dignity is independent of the Kantian formal machinery – for which Anscombe had little time. Nor would it be particularly significant that we can 'legislate for ourselves'. Anscombe actually mocked this idea (*CPP3*, 27). All that said, part of our intelligible criticism of conduct must be primitively, or non-theoretically, Kantian. I have in mind not so much what Kant derived from his thinking but what I suspect he brought to it.

We might usefully remember, in view of our remarks about infanticide, that children however young, are, on account of their rational nature, recognized by Kant as persons. He is very firm about that.[106] Rather satisfyingly, Kant's notion of dignity can be something of an embarrassment for Kant's many modern admirers. This is especially to be welcomed at a time when throwing out a baby together with its bathwater is considered objectionable mainly on the ground that water is a scarce resource. People cannot very well object to the 'depersonalizing' of small children at the hands of abusers if they profess themselves unsure whether these children are persons at all. It is curious to see that Kant's thoughts about dignity, of necessity somewhat unclear, seem to be more and more to be admired by those who reject his applications of them. After all, the very meaning of his thought is to some extent elucidated by these illustrations of what he had in mind.

But now, at the eleventh hour, a new trouble seems to face us in regard to the ethics of murder. The addition of an appeal to dignity to the Protagorean account still seems to leave us with a gap. At best it only takes us so far. This can be seen in the following way. Anscombe points out that revenge killings and voluntary euthanasia need not be contrary to human dignity even though they count as murder. In the case of revenge killings the one killed is being treated as someone responsible for his actions, and that is to recognize him as having the special status which goes with having a rational nature. In the case of voluntary euthanasia the matter may not be quite so clear. But if this really is a matter of respecting the free will of the one who dies[107], then once again the necessary respect is

[106] *The Metaphysics of Morals*, 98. See also 218, Kant's passing remark on suicide during pregnancy.

[107] 'If this really is a matter of respecting the free will of the one who dies'. In 'Murder and the Morality of Euthanasia' Elizabeth Anscombe expresses a doubt about this (*HLAE,* 269). For people would not, in her view, go along with someone's choice to die if they did not independently think that his life had lost its worth and was better ended, so that the killing

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there (*HLAE,* 68–9). All the same, both actions are claimed to count as murder. Now I might want to send poisoned chocolates to someone in Patagonia, in revenge for the chocolates he sent which killed my sister. How is the wickedness of my proposed action to be accounted for, since we can neither reply via dignity nor via our earlier Protagorean considerations? We might in desperation talk of the slippery slope, but perhaps this is an all too slippery remedy.

We must indeed face another problem. Here we are not concerned with anything mystical, but rather with the perfectly mundane aspect of the virtue of justice in its relation to murder: its alleged usefulness or necessity. A general respect for the teaching against murder might be thought to be needed for the well ordering of society, and superficially considered this seems obviously correct. But our earlier discussion of the Protagorean picture seems thoroughly to have undermined this claim with respect to the lives of the very small and the far away. The virtue of justice in relation to the teaching against murder appears not to be needed, either as measured by the interest of the one on whom the demand is laid, or even collectively in the interest of the community in which he lives and in which he has a stake. Its status as a virtue would therefore have to depend entirely on the fact that the very small or the far away are special entities having this somewhat odd kind of value or dignity, and which are therefore (for some odd reason) not to be murdered.

One hesitates to say so, but Elizabeth Anscombe might have been hasty to declare that every virtue had to satisfy a test of necessity. This would not be a wholly surprising verdict. After all, in 'Modern Moral Philosophy,' somewhat earlier in her career, she was claiming that we could 'give no general account of the concept of virtue and of the concept of justice' (*CPP3*, 39). I expect that the two kinds of virtue distinguished in Anscombe's later article would have to be more distinct than she described them. Some kinds of virtue would be virtues *qua* useful, others would be virtues whose demands would be useful only in a restricted way and where monstrous failings might

would not be respectful of human dignity after all. Killing as a vet might kill would be the real objective. But things need not be like this. Someone might administer a lethal injection while vehemently disagreeing with the patient's articulate judgment that his life is worthless, respecting the patient's autonomy as if the patient had refused life saving treatment for this reason. And in any case there is always the possibility that people who perceptively value their life might ask for death for altruistic reasons.

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predictably be innocuous. The distinction would even cut across what we think of as a single virtue, 'the' virtue of justice.

This is not an intellectually attractive result. We have largely to give up the unity of the *concept* of a virtue. Or better: it has further to be given up, since we *already* seem to have lost sight of the attractive idea that a virtue must always appear in advance a benefit to the one who possesses it: so that it would be a suitable present to give a baby at birth if only it could be done. We lose or blur the connection with good-sense, stressed by Anscombe (*HLAE*, 197) and with her welcome remarks, quoted above in Section 2, about the demands of reason as determined by our nature's needs. And worse: the very teaching about murder becomes itself 'mystical' somewhat contrary to the Anscombe expectation of intelligibility we set out with.

Unity in the concept of a virtue would be restored to us if we had a unitary view of waywardness as unwise – if we could talk of the misery which arises as a natural consequence of bad behaviour, beyond even the power of God to break by fiat, a misery which one could only hope to avoid by luck: either by sheer accident, or by the adventitious help of another who is prepared to rescue us. Without access to such a thought we might ask of our whole discussion: whether we are better off for invoking Kantian talk of dignity in these matters of murder and molestation than we would have been if we had just honestly admitted that we do not have an adequate response to the difficulties raised earlier in this paper. The answer, I suggest, is yes, but only marginally yes.

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