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How We Decide in Moral Situations

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Abstract

The role normative ethics has in guiding action is unclear. Once moral theorists hoped that they could devise a decision procedure that would enable agents to solve difficult moral problems. Repeated attacks by anti-theorists seemingly dashed this hope. Although the dispute between moral theorists and anti-theorists rages no longer, no decisive victor has emerged. To determine how we ought to make moral decisions, I argue, we must first examine how we do decide in moral situations. Intuitionism correctly captures the essence of the moral element in such situations, finding itself located somewhere between moral theory and anti-theory. In order that intuitionism may constitute an improvement over predecessors in normative ethics we must proceed with awareness of the limits imposed by the still dominant framework of modern moral theory. I argue that the deliberatively open system of intuitionism, interlocked in practice with prudential considerations, allows us to constructively move normative ethics beyond those limits.

Introduction

We don't really know what to expect when we first encounter the study of ethics. Many wonder if it has anything to teach beyond clarifying our personal moral views. But those who hope to benefit from studying ethics naturally expect that it can guide action. They would be disappointed if ultimately ethics can provide no action-guidance at all.

Looking past the ongoing particularism-generalism debate, the last major debate on the action-guiding capabilities of ethics occurred some time ago.[1] Less than a decade after the rebirth of normative ethics in the early nineteen seventies, a group of challengers to the mainstream enterprise emerged.[2] Mainstream normative ethicists

[1] Representative works of the current debate are, on the particularist side, Jonathan Dancy's *Moral Reasons* (Oxford: Blackwell, 1993) and his *Ethics Without Principles* (Oxford: Oxford University Press, 2004) and, on the generalist side, Sean McKeever and Michael Ridge's *Principled Ethics: Generalism as a Regulative Ideal* (Oxford: Oxford University Press, 2006).

[2] See Stephen Darwall, Allan Gibbard and Peter Railton, 'Toward Fin de siècle Ethics: Some Trends', *Philosophical Review* **101** (1992), 123 on the

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have been called 'moral theorists'; their challengers, 'anti-theorists'. This debate has cooled down since the nineteen eighties, the matter left undecided.

What I think is needed is a single, comprehensive, *constructive proposal* for advancing normative ethics on action-guidance. Neither moral theory nor anti-theory has been able to do this. Moral theory, I argue, cannot advance because it is fixated on morality, which ethics need not be.[3] Anti-theory can't move us forward because it is an inherently critical position. So any advance must move outside these old frameworks. One indispensable requirement of an action-guiding normative ethics is it must *actually* be able to *guide action*.[4] Needless to say, for a new normative ethics proposal to have any worth, it must move us beyond the standstill left by the old action-guidance debate.

My proposal involves two elements – one familiar, one new. Intuitionism covers the moral portion of my proposal, and is familiar to ethicists today. The new element, which shall have most of our attention, comes into sight by looking beyond morality and inquiring into action-guiding capabilities of prudent action. The two elements are tied together thus: intuitionism is the normative ethical theory that is best fitted to interlock with prudence in a systematic action-guiding way, and it is the best theory for seeing how prudence in

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rebirth of normative ethics. See Nora Hämäläinen, 'Is Moral Theory Harmful in Practice? – Relocating Anti-theory in Contemporary Ethics', *Ethical Theory and Moral Practice* **12** (2009), 539 on the anti-theory response.

[3] Many ethicists, despite the efforts of anti-theorists and virtue ethicists continue to describe ethics as being solely about morality, or claim that 'ethics' and 'moral philosophy' are interchangeable terms. See Russ Shafer-Landau, *The Fundamentals of Ethics*, 2nd ed. (New York: Oxford University Press, 2012), 1; Timothy Chappell, *Ethics and Experience: Life Beyond Moral Theory* (Montreal & Kingston: McGill-Queen's University Press, 2009), 3; David Wiggins, *Ethics: Twelve Lectures on the Philosophy of Morality* (Cambridge, Mass.: Harvard University Press, 2006), 9; Mark Timmons, *Morality Without Foundations: A Defense of Ethical Contextualism* (New York: Oxford University Press, 1999), 9; Robert Arrington, *Western Ethics: An Historical Introduction* (Oxford: Blackwell, 1998), viii; and Robert Holmes, *Basic Moral Philosophy* (Belmont, CA: Wadsworth, 1998), 2.

[4] This might seem too obvious to mention, but in the past, normative theorists simply assumed their theory could guide action. A practicable normative ethics should be able to be used by agents in tough moral situations, and should even pass real-world psychological tests.

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real life actually does practically interlock with morality. I argue that to make progress on what we ought to do we must first determine how we actually decide in moral situations.

1. Moral Theory

In the late twentieth century, 'moral theory' was often a term of distinction, but perhaps just as often a term of abuse. Moral theories have been thought by their proponents necessary to really know right from wrong. What a moral theory must have is a *decision procedure* – a principle-based means of determining what one ought to do. More specifically, the output of a moral decision procedure is a determination that an act is right or wrong. Such a procedure has been thought to have a justificatory or explanatory function in relation to actions, or to subordinate moral rules, as well as the practical function of guiding action.

The quest for a moral decision procedure is a modern one. What has been commonly sought is a supreme principle of morality. Kant clearly believed his Categorical Imperative to be the principle by which we could decide without error what our duty is in every case. In defending it, he states that, 'Those who know what a formula means to a mathematician, in determining what is to be done in solving a problem without letting him go astray, will not regard a formula which will do this for *all duties* as something insignificant and unnecessary'.[5] Utilitarians followed suit with their very own supreme principle, although it quickly was seen not to be precise in the way Kant thought his algorithmic principle was.[6]

[5] Immanuel Kant, *Critique of Practical Reason*, 3rd ed. trans. Lewis White Beck (Upper Saddle River, N. J.: Prentice Hall, 1993), 8 (emphasis added).

[6] Utilitarianism will not be at the center of my discussion. This theory has numerous deliberation problems of its own. In fact, at one point these problems were so plentiful that utilitarians basically bowed out of the deliberation business, with R. Eugene Bales' paper, 'Act-utilitarianism: Account of Right-making Characteristics or Decision-making Procedure?' *American Philosophical Quarterly* **8** (1971), 257–265 taking the lead. Previously, everyone, including all utilitarians, thought the principle of utility afforded both an account of right making and provided a decision procedure. He claimed it need only be regarded as having the former. This soon became the consensus consequentialist position. See Philip Pettit, Introduction to *Consequentialism*, Philip Pettit (ed.) (London: Dartmouth Press, 1993), xvi.

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Not all moral decision procedures rely on a single supreme principle. In the twentieth century, several attempts were made to devise a decision procedure upon thought experiments alone. Roderick Firth's Ideal Observer Theory provides one example.[7] But the most famous procedure of this variety is obviously Rawls's. In an article entitled 'Outline of a Decision Procedure for Ethics', Rawls says about his procedure and its dual role in justifying moral beliefs and guiding action: 'the objectivity or the subjectivity of moral knowledge turns... simply on the question: does there exist a reasonable method for validating and invalidating given or proposed moral rules and those decisions made on the basis of them?'[8] Moral theorists, in short, thought finding a decision procedure necessary for knowing and doing what's right.

2. Anti-Theory in Ethics

What is anti-theory in ethics? 'Anti-theorists take the bold stance of being against any sort of normative theory which guides our behaviour by systematizing and extending our moral judgments'.[9] So quite simply, anti-theorists are anti-moral theory. The main target of their attacks is moral theory's action-guiding aim. The charges vary. Some anti-theorists argue that moral theory cannot guide action. Others claim that it should not guide action. Still others insist that being guided by a moral theory would itself be bad.[10]

I'll focus on a different line of critique, one most pertinent to our desire to know how we decide in moral situations: Moral theory is *not needed* for action guidance. This might seem to be the weakest among the charges against moral theory. But since decision procedures are brought in with the express purpose of improving our moral decision making, showing that they are practically unnecessary would show that moral theory is utterly superfluous in its chief supposed practical capacity.

One way to show moral theory is unneeded for practical purposes is to point out that we *already know* how to decide in moral

[7] See Roderick Firth, 'Ethical Absolutism and the Ideal Observer', *Philosophy and Phenomenological Research* **12** (1952), 317–345.

[8] John Rawls, 'Outline of a Decision Procedure for Ethics', *Philosophical Review* **60** (1951), 177.

[9] Stanley Clarke, 'Anti-theory in Ethics', *American Philosophical Quarterly* **24** (1987), 237.

[10] Op. cit. note 9, 237 and Hämäläinen Op. cit. note 2, 539.

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situations.[11] So how we decide in moral situations is used against the moral theoretic proposals for decision procedures. And how do we decide? We employ numerous means and ask several questions, some of which are represented by a moral theory, others not. To use Stuart Hampshire's example: If someone tries to dissuade a friend from committing suicide, a number of considerations are likely to be employed. The two friends might consider whether there is life after death, what their religion says about the matter, the social effects of suicide, and the likely impact on those left behind.[12] As Hampshire states, 'What we want to know …is – What makes me (in the logical, not the causal sense) decide that this is the right action? There is no reason to expect a simple answer in terms of a single formula, *e.g.* "it is likely to increase happiness"'.[13]

As this case illustrates, however, questions of utility can be factored in, and can even helpfully assist us in making a decision. So the problem with a moral theory is not that there is no connection between how we actually decide in moral situations and the theory. Rather, 'systematising moral theory, like fundamentalism, typically tells us to take *just one* of these questions, and treat it as the Master Question – the question that in every case identifies the Master Factor, the one thing that truly matters in ethics and which can settle every possible question that comes up for practical deliberation'.[14] In every practical enterprise outside ethics we assume that having more rather than less practical resources to draw from is preferable. By narrowing its action-guiding tools down to one, moral theories leave agents less practically equipped after committing to a moral theory than they were before.

What was the outcome of the moral theory-anti-theory dispute? It's debatable. Moral theory is currently thriving, with even the arch decision theorist himself, Kant, finding contemporary proponents. And one ethics school that was formerly wholly against moral theory, virtue ethics, currently has prominent members describing their work as moral theory.[15] But I would say that, on

[11] Cheryl Noble, 'Normative Ethical Theories', *The Monist* **62** (1979), 496–509 takes this line.

[12] See Stuart Hampshire, 'Fallacies in Moral Philosophy', *Mind*, New Series **58** (1949), 474.

[13] Op. cit. note 12, 480.

[14] Timothy Chappell, 'Ethics Beyond Moral Theory', *Philosophical Investigations* **32** (2009), 209.

[15] Rosalind Hursthouse, *On Virtue Ethics* (Oxford: Oxford University Press, 1999), 1 claims that virtue ethics is now a 'fairly recent addition to contemporary moral theory'.

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balance, the decision goes to anti-theory. Ethicists rarely talk about, or expect much from, decision procedures anymore. Moral theorists have adjusted their work in response to anti-theory critiques.[16] Prominent New Kantians have taken the extraordinary step of claiming that Kant himself did not consider the Categorical Imperative to be algorithmic.[17] These points indicate the power of the anti-theoretical critique.

Yet perhaps the best evidence for an overall moral theory fallback is given by the current particularist-generalist debate.[18] This action-guidance debate is focused on whether there is *any* moral principle that is of any practical use *at all*. And to go from arguing for a decision procedure to having to make the case that just one moral principle is useful cannot but be depicted as moral theory in retreat. However, it may merely be the case that, although many moral theorists do not *state* that they have a decision procedure, they '*presuppose* that there is a decision procedure that provides a unique correct solution to every moral problem'.[19]

3. Intuitionism

Intuitionism may be characterized as the theory that claims that (i) we intuitively know (ii) several distinct fundamental moral principles, (iii) each having a distinct ground. It is on the basis of such principles as 'Keeping promises is required' and 'Lying is wrong', I claim, that *you know what's right*, or as it is put in common vernacular, 'You know right from wrong'. The root of this knowledge is that these and other principles are self-evidently true.

[16] See Christopher Gill, 'Are Ancient Ethical Norms Universal?' in *Virtue, Norms, and Objectivity: Issues in Ancient and Modern Ethics*, ed. by Christopher Gill (Oxford: Clarendon Press, 2005), 32 and Hämäläinen, Op. cit. note 2, 540.

[17] See Onora O'Neill, *Acting on Principle: An Essay on Kantian Ethics* (New York: Columbia University Press, 1975), 73, John Rawls, *Lectures on the History of Moral Philosophy*. ed. Barbara Herman (Cambridge, Mass: Harvard University Press, 2000), 166, Elijah Millgram, 'Does the Categorical Imperative Give Rise to a Contradiction in the Will?' *Philosophical Review*, **112** (2003), 552. It should be noted, however, that there are reasons other than anti-theory for New Kantians to take this position, most notably the murderer at the door.

[18] See footnote 1.

[19] Bernard Gert, *Common Morality: Deciding What to Do* (Oxford: Oxford University Press, 2004), viii (emphasis added).

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On which side was intuitionism in the old action-guidance debate? Well, intuitionism was sidelined when it was underway. Mainly for metaethical reasons, intuitionism was thought untenable when normative ethics was revived. It's reliance on self-evident truths, acceptance of nonnatural properties, and the fact that, despite its claim that we know what's right, moral disagreement is common all secured its outcast status in ethics. A series of intuitionist works, starting in the nineteen nineties, have brought it back to prominence.[20] Most ground reclaimed, however, is in metaethical territory, the location of most old objections. Here I focus on intuitionism's normative ethical aspect, especially on its action-guiding capacity.

Even though intuitionism was sidelined, moral theory opposed it, and for a simple reason. Intuitionism has no decision procedure. Although agents might use its plural intuitive principles, it offers no special principle to adjudicate between them should they conflict. This, according to Rawls, is a defect. Intuitionists, he states, 'include no explicit method, no priority rules, for weighing... principles against one another: we are simply to strike a balance by intuition, by what seems to us most nearly right'.[21]

In reply, I say this. That it has no decision procedure is actually a virtue of intuitionism, not a vice. Intuitionism recognizes a number of crucial points about deciding what to do that the moral theorist overlooks. It is aware that knowing what's *prima facie* right is not sufficient for determining what's actually right, that every action involves moral risk, and that deliberation is a multifaceted practical matter that quickly overtakes the boundaries of what has been considered moral theory. For these reasons it is a *deliberatively open* theory – a theory that does not claim to have a decision procedure the correct use of which is necessary and sufficient for knowing what to do in a moral situation. Deliberatively closed theories like Kantianism have as a central claim that they do have such a procedure.

Anti-theorists hold that intuitionism is not a moral theory. Immediately this sounds strange, for intuitionism is a theory, and one about morality. But with the definition given of moral theory, it makes sense. Anti-theorists and intuitionists, interestingly, have

[20] Especially see Robert Audi, *The Good in the Right: A Theory of Intuition and Intrinsic Value* (Princeton: Princeton University Press, 2004), Russ Shafer-Landau, *Moral Realism: A Defence* (Oxford: Clarendon Press, 2003), and Michael Huemer, *Ethical Intuitionism* (Houndmills, Basingstoke: Palgrave Macmillan, 2005).

[21] John Rawls, *A Theory of Justice* (Cambridge, Mass: Harvard University Press, 1971), 34.

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many commonalities. First, anti-theorists agree with intuitionists that there is no Master Factor,[22] although intuitionists are generally open to the possibility of discovering one.[23] Next, 'antitheorists agree with intuitionism that rational deliberation doesn't always provide reasons explaining why, in some hard cases where moral requirements conflict, a particular action is morally right and the alternatives are not'.[24] Apparently the points of agreement are so numerous that one anti-theorist sees intuitionism as claiming, in my view mistakenly, that 'the demand for normative ethical theory is misguided'.[25]

Today many moral theorists insist their principle or their procedure merely does the work of explaining what is right. This signals a massive retreat, which puts the old moral theoretical action-guiding critiques of intuitionism into fresh light. The work of anti-theorists, in effect, vindicated the intuitionisms of H.A. Prichard and W.D. Ross on the matter of action-guidance. Anti-theorists were the unwitting allies of the intuitionists, when intuitionism was more or less defunct. Now that intuitionism is more secure in its metaethical bearings, we can show what role it plays in guiding action.

4. What is Moral Theory's Error?

Returning to the shortcomings of moral theory, the next question to ask is, what assumptions or presuppositions are responsible for them? Identifying the misstep responsible for moral theory's shortcomings will enable us to chart a more constructive action-guiding course for normative ethics. The anti-theory critique most pertinent to this end is, once again, roughly this: How we deliberate is adequate as it is. So no kind of theory is needed to guide action.

[22] See Chappell Op. cit. note 14, 211.

[23] Ross says only that we have no basis for claiming we're now in possession of a supreme principle of morality, but adds that, 'If further reflection discovers a perfect logical basis for this or for a better classification, so much the better' W.D. Ross, *The Right and the Good* (Oxford: Clarendon Press, 1930), 23. Audi has argued that Kant's Formula of Humanity of the Categorical Imperative can and should be incorporated into intuitionism, Audi, Op. cit. note 20, Ch. 3.

[24] François Schroeter, 'Reflective Equilibrium and Antitheory' *Noûs* **38** (2004), 125.

[25] Noble, Op. cit. note 11, 508.

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One diagnosis of the error is that modern moral theory is simply too narrow.[26] What we need is an ethics that brings into view a wider range of considerations. We cannot focus exclusively on a narrow class of moral quandaries. There is much else to consider – actually, the whole of life. Virtue, friendships, love relationships, and so on should be considered so that our theories can reflect all that we find important. There is much to this criticism, and thanks to the anti-theorists and virtue ethicists many of the topics just mentioned are under discussion today, though they were not under the reign of moral theory. But expanding our focus only solves the action-guidance problem if there was no fundamental lack in moral theory, and I think there was and is such a fundamental lack.

Regarding the matter of action-guidance the cardinal error of moral theory was given in an inexplicably overlooked 1949 article by Stuart Hampshire, 'Fallacies in Moral Philosophy'. He states that, 'Aristotle is almost entirely concerned to analyse the problems of the moral *agent*, while most contemporary moral philosophers seem to be primarily concerned to analyse the problems of the moral *judge* or critic'.[27] Hampshire claims that modern moral theory is coming at things from the fundamentally wrong perspective. It sees them from the judge's perspective, with the aim of coming to the correct moral judgment. Aristotle, in contrast, came at moral problems from the agent's perspective, with the intention of tackling her practical moral problems.

Although these perspectives are related, in that the agent would like to know what judgment is correct in a moral situation, the agent is more concerned with practically solving his moral problems. Since ethicists have generally neglected Hampshire's insight, despite virtue ethicists and anti-theorists improving the overall direction of ethics, we're still working from the judge's perspective. Just think about how we describe the right decision nowadays: the *right verdict*.[28] This term is odd, since agents make decisions and others, the judge or the jury, give their verdict of it, and do so only *after*

[26] See Edmund Pincoffs, 'Quandary Ethics', *Mind* **80** (1971), 552–571 and Michael Stocker, 'The Schizophrenia of Modern Ethical Theories', *Journal of Philosophy* **73** (1976), 453–466.

[27] Hampshire, Op. cit. note 12, 467.

[28] Two examples of this prospective use of 'moral verdict': Dancy speaks of how generalists look for 'an overall verdict as to how to act' 2004, Op. cit. note 1, (2004), 5. Shafer-Landau, in reviewing a common objection to Ross's theory states, 'there is no definite method for guiding us from an understanding of the prima facie duties to a correct moral verdict in any given case'. Shafer-Landau, Op. cit. note 3, 244.

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the agent has acted. Hampshire, I think, correctly identifies the root of moral theory's errors. If we turn our attention from the judge's perspective toward the agent's perspective, then we might put normative ethics on better footing.

5. Fundamental Ethics Questions

Bernard Williams, one of the most prominent anti-theorists, evaluated ethical theories based on what fundamental question they posed. Moral theory, according to Williams, fundamentally asks, 'What is our duty?' He thought that ancient philosophers were more on track with their fundamental question, 'How should one live?'[29]

But to effectually deal with action-guidance, to describe how we decide in moral situations, it seems the prime question to be answered is, 'What should I do?'[30] Asking how one ought to live opens up issues of the longest-term. 'What is our duty?' is often a question of immediate moral urgency. But it is crucial to note that answering 'What is our duty?' does not answer 'What should I do?', for several reasons. Suppose the duty one has is *to not lie*. First, not lying is not a particular kind of action. Rather, doing the right thing is covered by considering the *action-complement* of lying, that is, the entire range of morally permissible actions that are not a lie. Telling the truth is a clear way not to lie. But so are changing the subject, asking a question, and walking away from the discussion. Second, knowing what's right – in this case not lying – does not give us a *course of action*, something we can do so as not to lie. Lastly, given how different Jones and Smith are as people, what Jones must do in order not to lie is not necessarily what Smith must do to not lie. So by asking 'What is our duty?' the answer is the same for Jones as for Smith. However, asking, 'What should I do?' given that Jones and Smith are different people, the answers might differ.

Examining a specific case will help us to see all this. Consider that Jones, a young mother, is interviewing for a job. At some point during the interview, she is asked, 'Do you have any children?'

[29] Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge, Mass: Harvard University Press, 1985) 4.

[30] Williams does consider this question and recognizes it as the 'most immediate and uncomplicated question' of the practical sort (Op. cit. note 29, 18). But he finds 'How should one live?' to be the best starting point for ethics, because it is 'reflective' and has us consider 'a longer-term' perspective on life (Op. cit. note 29, 19).

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Immediately Jones thinks that if she tells the truth, she might not get the job, since some employers avoid hiring women with children. What is Jones's duty here? When asked a question our duty is not to lie. But since Jones has two children, telling the truth might cost her the job. If the interviewer is discriminating against Jones it is unjust. That is why it is currently illegal in the U.S. to ask about one's children in a job interview setting. But obviously, it's not likely that Jones will get the job if she points out that the interviewer's question is illegal. So although not lying is Jones's duty, it is not obvious what she should do.

This scenario brings out two crucial points. First, even if moral theory found the correct decision procedure, which determined Jones should not lie, it is not even close to telling Jones what to do. Second, on the matter of how we decide in moral situations, if we ask anything in a moral situation it is, 'What should I do?'

6. Moral Situations

Learning how we decide in moral situations requires going to the root of the matter. It requires analyzing moral situations. It is not words or sentences about such situations that we must analyze, nor any principle that we may apply to them, but the situations themselves. And it is not merely analysis of moral situations with an eye to resolving them that interests me. Such analyses are already ubiquitous. I think, instead, that it's of paramount importance that we analyze the metaphysics of moral situations.

Ethics currently treats moral situations like old time movies treated romantic scenes. You've seen the old movies. A couple embraces, then kisses. The scene fades to black. The next thing you know, they are canoeing together on a beautiful lake in the morning. Everyone in the theater wants to know what happened. Ethics, on the other hand, prescribes how the agent should make a moral decision in a situation. The agent complies, making the decision, we imagine, as instructed. The scene fades to black. But that's where the similarities end. Ethicists show little interest in whether the agent succeeds in doing what they've decided is right. They seem uninterested in the most crucial, the most suspenseful scene: will the agent – nay, *how* will the agent actually do right? Consequently, there is no 'morning after' scene with the agent morally triumphant. But ethicists are nonetheless satisfied.

At an 'Ethics Premiere' a novel moral theory, moral principle or moral decision procedure is introduced and the imagined agent

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makes a decision on the basis of it. The ethicists stand and cheer! That most ethicists join in applause shows that no matter what school an ethicist belongs to, the roots of moral theory are so deeply entrenched in the discipline that they still hamper our thinking regarding what's most important in moral situations.[31] Here I register my dissent and say that *succeeding in doing right* is most important, that ethics should guide agents to succeed in doing right. Since moral theory's job is done when the agent decides based on its principle or principles, some other kind of theory or principle must pick up the job of guiding the agent to successfully do right, if any can. This means going outside what is our duty and exploring normative factors other than morality.

7. Moral Relations and Moral Kinds

Perhaps without intending to moral theorists impose a procedural *ought* in addition to the moral *ought* agents already face. They say, in effect, you *ought* to use method X to find out what you morally *ought* to do. Anti-theorists correctly removed the added *ought* and insisted that there are various ways we do, and ought to, decide what is right. Intuitionism, in my view, agrees with anti-theorists on this point.

What is the metaphysical landscape of moral situations? The moral element, I'd say, has the following profile, picking up the Jones case where we left it, to illustrate it. When Jones is in a moral situation she is in a *moral relation* to at least one other person.[32] In the interview situation she bears the do-not-lie relation to the interviewer, even before he asks his inappropriate question. How she comes to recognize that she is in this relation to him is that she considers how she should respond to his question. As she does she clearly recognizes that one option, call it option A, is of the *moral kind* 'lie'. Although there is a general assumption that intuitionism has it that agents consider *principles* in moral situations, this is not necessarily so.[33] In *The Right and the Good*, Ross himself never says we weigh, or should weigh, principles in moral situations.

What is most fundamental is that agents in moral situations consider moral kinds in the options they weigh. If one chooses option

[31] Note that anti-theorists too are content letting the scene fade to black.

[32] For the case for moral relations see chapter five of David Kaspar, *Intuitionism* (London: Bloomsbury, 2012).

[33] Dancy, 2004, reads Ross as holding such a theory, Op. cit. note 1, 5.

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A that action will constitute a lie. And that is something we recognize as *prima facie* wrong. Since people can, do, and should consider whatever informs them of the moral permissibility of their various options, moral kinds serve as the fundamental moral *constant* through all kinds of considerations. Ethicists of all stripes employ moral kind language – 'lying', 'murder', 'harming' – throughout their work, indicating ethics cannot do without it.

The moral relations agents bear to one another and the prospects of instantiating one or another moral kind constitute the moral element of moral situations. Note, however, that we are considering here moral situations only prior to action. When someone completes a moral action, they instantiate a given moral kind, and thereby instantiate additional properties, such as right or wrong. But when an option is contemplated before action, and an evaluation has been made, we have only the agent's *end*, the end of their action, say not lying. From this perspective, it seems one thing missing is the *means* of realizing their end. A minute's reflection should reveal we've not yet begun in ethics to think of what's necessary to guide agents in moral situations – only providing the end of agents' actions, never the means.

In deliberation, the moral action exists only in prospect. That is, the moral act doesn't exist. What the agent will do is in the future. So there is necessarily a temporal gap between the agent's intending their moral end and their realizing it. After recognizing that taking option A will be a lie, Jones thinks of what to do, and mere thinking doesn't realize her end. Narrowing our focus even more, we can see that there is a temporal gap between our thought of what to do and our *doing it*. So not only is there a gap between our thought of what to do and our realizing our moral end, there is also a gap between our thought of what to do and our action toward that end.

Just this initial analysis of a moral situation is highly instructive. The existence of the moral element is really quite thin. The right action has actual existence, before deciding, only in the agent's mind. So a moral situation, at least as the agent is deciding, is neither right nor wrong – at least not yet. I've said nothing yet about the means by which the agent might realize her end. Reviewing all points just discussed reveals that the moral *ought underdetermines* the practical *ought* which agents face in moral situations. This fact alone shows that deliberatively closed moral theories are practically impossible, for if the moral *ought* underdetermines the practical *ought*, no moral principle can be sufficient for an agent to know how to do right. So once again, knowing our duty does not imply that we know what we should do. But here we've learned

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that how we decide in moral situations, if we wish to do right, necessarily involves identifying the moral kind or kinds involved.

8. Courses of Action

Introducing *courses of action* necessarily complicates matters. Action, as always in ethics, is important where courses of action are concerned. But that a *course* of action is a connected and purposeful sequence of actions one must undertake over time is nearly totally ignored. As for complexity, once we have opened practical considerations beyond the narrow end of doing what's morally right, a great number and variety of considerations are likely to flood our minds.

Take the case of Jones. It is natural that we think of all the courses of action she might take and remain committed to the end of doing right. When teaching ethics we see how practical minds proliferate courses of action. For instance, students introduced to Kant's murderer case will have no shortage of proposals for resolving the situation, often ignoring Kant's insistence that there are only two options.[34] Many moral theorists would say such students misunderstand the problem. On this point I side with the students. The problem the students are thinking of is a practical moral problem. Moral theorists are more interested in which decision procedure is sound, and don't wish to be distracted by what's most practical.[35]

Moral theory's exclusive focus on the moral end to be realized has blinded it from seeing that practical problems require courses of action. Because of its exclusive focus on morality it is not equipped to provide them. However, if we can identify a normative source besides morality that can systematically guide action to serve the end of morality, then we'll have within our grasp the tools to solve practical problems like the one Jones faces.[36]

[34] Immanuel Kant, *Grounding for the Metaphysics of Morals with On a Supposed Right to Lie Because of Philanthropic Concerns*, 3rd ed. and trans. James W. Ellington. (Indianapolis: Hackett, 1993), 66.

[35] As Caroline Whitbeck states, 'Too often when statements of ethical problems are presented to students, their attempts to probe the complexity of the case are cut off', 'Ethics as Design: Doing Justice to Moral Problems', *Hastings Center Report* **26** (1996), 13.

[36] When we ask what means serve the end of doing right, two broad ways of answering are likely to occur to us. We'll think of a *satisficing solution*, one that merely gets the job done: it enables one to do right. And we'll also think of an *optimizing solution*, a way to, yes, do right, but also do so with the best results practically possible.

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9. Personal duties

Among contemporary ethical theories intuitionism is best equipped to deal with agent problems. This may partly be seen in the fact that intuitionism already thinks of moral action in means-end terms. It is the deliberatively open structure of intuitionism that allows the correct insights to occur. Contrariwise, other normative theories, because they seek all the moral answers with a single procedure, miss these points. Moral theory has in the past been blind to many considerations important to agents, such as virtues and interpersonal relationships. Here I'm showing that moral theory's narrowness of practical vision has been grossly underestimated.

Every action in a moral situation incurs a *moral risk*, says Ross.[37] One reason why is that, unlike when we think about a self-evident moral principle, the epistemic situation in the arena of moral decisions is not one of certainty. We have no supreme principle which will unerringly inform us of what's right. Moral theories aim to cut out moral risk by making the supreme principle risk-proof.[38] By not putting boundless trust in a single principle, intuitionism suggests that lowering moral risk is a matter of having *moral discernment* and of lowering risks generally. And the principles for how to lower risks are not moral.

Additionally, in the practical matter of doing what's right, Ross directly thinks of it as an end, and considers the means to achieve that end. He calls the moral end an agent might have a *primary duty*. In the case of Jones, her primary duty is to not lie. The means an agent should take in order to satisfy their primary duty is what he calls their *consequential duty*.[39] Ross holds that what is one's consequential duty depends one's psychology. And since we have different inclinations to surmount, what I must do to do what's right may not be what you must do.

Consider the interview case. Jones becomes immediately anxious when someone asks her a question she's uncomfortable answering. She tends to lie when she gets nervous. So she has the consequential duty: 'Resist your tendency to lie out of anxiety'. Smith is different in this respect. When he is asked what he thinks is an inappropriate question, he becomes extremely indignant. When outraged, he feels

[37] Op. cit. note 23, 30–32.

[38] Thomas Nagel claims that on Kant's theory there 'cannot be moral risk', 'Moral Luck' in *Mortal Questions* (New York: Cambridge University Press, 1979), 24.

[39] Op. cit. note 23, 22.

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justified in lying to the offender. So Smith's consequential duty is: 'Resist your tendency to lie out of indignance'.

The term 'consequential duty' is bound to confuse because it resembles 'consequentialism'. Ross's term has to do with what logically follows from the primary duty and the personal situation of the individual who has the primary duty. So let's instead use the term 'personal duty' for Ross's concept, and widen it to cover *all* that an individual person must face and overcome to do what's right, and not just their inclination.

Personal duties differ from primary duties in significant ways. First and foremost, what is a primary duty is a primary duty for us all. Everyone in like circumstances has the same primary duty. So Jones and Smith have one primary duty, not lying. But their personal duties are distinct. Jones must combat her anxiety, and Smith must handle his tendency to act out of indignation. So how we decide in moral situations is, if we aim to satisfy a given moral end, we consider what means in our individual case will suffice.

10. Prudence Dependency

We now may show various ways that guiding moral action requires the cooperation of prudence. In order to do what's right, it is not enough to merely determine what's right. First, we need to be able to answer the question, 'What should I do?' In a situation, this is clearly a wider practical question than what is moral. Answering it satisfactorily provides a *counsel of prudence*. Adequately fitting means to a given end is clearly prudential. Prescription of a course of action involves correctly fitting means to a given end, whatever that end may be.

The end currently under consideration is a moral end. So a course of action that would satisfactorily serve that end would be properly describable as *morally prudent*. It might be objected that since such a course of action aims at doing what's right it is more accurately described as moral. But there's a problem with that. Suppose Robinson is given a course of action A suited to a moral end M, and Robinson changes her mind, and pursues course of action B to the moral end M. We do not say Robinson committed a *moral wrong* by choosing course of action B over course of action A, unless doing B is itself morally wrong.[40]

[40] Ross, Op. cit. note 23, 4 is aware of this point.

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Intuitionism has revealed other ways that morality practically depends on prudence. Moral risk is something one is alive to when one has knowledge of one's general duties but recognizes the difficulty of practically deciding what to do. If two distinct, equally weighty moral kinds inhabit options I'm considering, moral considerations alone aren't sufficient to guide me to do what's right. Prudence is necessary as well. Ross, according to Audi, 'saw practical wisdom as essential for determining final duty in at least difficult cases of conflicting duties'.[41]

Also, when we think of how agents might lessen moral risk, it is clear that moral notions are not alone involved. We must look outside morality to prudence to weigh and lessen our risks, be they moral or not. Lastly, the whole notion of personal duties necessarily bridges moral and prudential considerations. One end of the bridge is firmly planted in what is a duty, and a duty for all: a primary duty. The other end of the bridge is just as clearly outside of morality, and is involved in what is practically necessary for each person, depending on their situation, character and psychology. So two people can have different personal duties to meet the same primary duty. Now prudence is distinct from morality in one pertinent way. What is moral is moral for all. What is prudent for me is not necessarily prudent for you. Since my personal duty is not necessarily yours, personal duties are individual prudential matters that can allow different agents to do right with regard to the same moral end.

All these converging points lead inevitably to this conclusion: Prudence is practically necessary for morality. More explicitly: *No moral action an agent intends to perform can succeed without prudent action*. Put differently, no moral intention can be realized without prudent action. The prudential means must necessarily suit the moral end. This I call the *prudence dependency* thesis.[42] Crucially, we must not confuse it with: No moral action an agent intends to perform can succeed without being based on *the most prudent* action, period. So all that matters for the thesis is what is prudent for meeting a given moral end.[43] Since prudence, in general, comes

[41] Audi, Op. cit. note 20, 85. Ross says that for imperfect duties, following Aristotle, 'The decision rests with perception', Op cit. note 23, 42.

[42] For my previous arguments for the agential form of this thesis, *one cannot be a moral person without being prudent*, see David Kaspar, 'Can Morality Do Without Prudence?' *Philosophia* **39** (2011), 311–326 and Op cit. note 32, Chapter 8.

[43] Thus the prudence dependency thesis in itself neither invites nor overcomes cases of prudential-moral conflict, such as whether it is ever

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in degrees, agents can be minimally prudent, generally prudent or highly prudent. This is true no matter their end. So they can be minimally financially prudent, generally financially prudent, or highly financially prudent. All that an agent need be in an everyday, unchallenging moral situation is minimally morally prudent, and they will likely do right. Of course being highly morally prudent enables an agent to be optimally moral.

For those currently devising counterexamples, an alternative formulation of the prudence dependency thesis is available: *No moral action an agent intends to perform can succeed without finding and following the instrumentally rational means to the intended moral end.* For basic moral cases it doesn't take a great deal of practical intelligence to do right. But it takes some. If you say that Wilson must be instrumentally rational to intentionally do right, and I say he must be minimally prudent, then our disagreement is merely a verbal one. It is toward the other extreme of instrumentally rationality, however, that the prudence dependency thesis takes on great significance for the matter of action-guidance. Being highly prudent enables one to deal with problems just like the one Jones faces in the interview situation.

Tying everything together now, the key single constructive proposal for advancing action-guidance in normative ethics is to examine *moral prudence*. Once ethicists turn to moral prudence – studying morality, prudence, and the practical dependence of the former on the latter – a great many problems currently thought to be vexing will be seen to be soluble.

11. Revisiting the Jones Case

Let's look again at the Jones case, equipped as we are with the idea of moral prudence. Previously, from the judge's perspective, working only with morality as a normative source, moral theory would have told her not to lie. So it was of little help. Once we take on the agent's perspective, once the normative source of prudence is included and practically integrated with morality, we begin to get some ideas of how to deal with the situation.

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prudent for an agent to give up their life for a moral end. For discussion of that problem see Gregory Kavka, 'The Reconciliation Project', in *Social Ideals and Policies: Readings in Social and Political Philosophy*, ed. by Steven Luper (Mountain View, CA: Mayfield Publishing, 1999), 95–104.

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During the interview, when Jones is asked about her children, she immediately gets anxious and considers saying 'no'. But she holds back, recognizing that action is of the moral kind 'lie'. That's enough to inform her it is *prima facie* wrong. She makes a decision, not a verdict, not to lie. Telling the interviewer that she does, indeed, have children would be honest and, if morality were the only normative consideration, morally praiseworthy. However, a wise philosopher would say that decision would be *extremely stupid*, or highly imprudent. It's none of the interviewer's business, and is, in fact, illegal to ask about in the U.S. But it would be just as imprudent, no matter how righteous, to call the interviewer out on the matter. Look, Jones came to the interview to get a job. So what should she do?

With the end of not lying in mind, here are some *moral tactics* Jones can employ.[44] These are prudent, situationally immediate ways she can not lie and simultaneously serve her end of landing the job. Prudential matters may be divided into *external prudence* and *internal prudence*. External prudence has to do with actions immediately having an impact on the external world. Internal prudence concerns what we think, what we believe – actions internal to our mind. Let's start with internal moral prudence. Jones, remember, has the personal duty: 'Resist your tendency to lie out of anxiety'. An excellent way for her to do so is to, one, recognize the inappropriate question makes her anxious; two, to effectively deal with this, she should intentionally interpret the interviewer's question so she can perform at her best. The principle might be worded thus: 'Interpret seemingly negative events in the best light'. She might say to herself, 'He might be unaware of the law concerning this'. This tactic of *reappraising* the situation will enable her to keep her composure and effectively act.[45]

Moving now to matters of external moral prudence. In response to, 'Do you have any children, Ms. Jones?' she can say, 'I am very committed to my career. And I make it a firm rule to not ever let any

[44] Tactics are ways to satisfy a chosen end that might be realized within a situation. In themselves tactics are morally neutral. But either an immoral end or an immoral means for realizing a moral end, can make a tactic immoral. Here I only consider morally permissible tactics.

[45] The empirical psychological research of J.J. Gross, 'Emotion Regulation: Affective, Cognitive, and Social Consequences', *Psychophysiology* **39** (2002), 281–289 confirms the benefits of this approach. Note that Epictetus clearly advocated reappraisal of disturbing events. For example, 'Never say about anything, "I have lost it", but instead, "I have given it back"', *The Handbook (The Encheiridion)*, trans. N.P. White (Indianapolis: Hackett, 1983), 14.

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personal issues get in the way of doing my job'. If the interviewer persists in asking about the children, Jones can prudently put him on the spot, and find out what he really seeks to know. She can say, 'You know, in all the job interviews I've had, I've never been asked that kind of question. I'm interested, what is the underlying concern you might have about my performance?' If the interviewer simply asks again, then Jones should consider whether she really wants to work for a company that flouts the federal law and might be involved in discriminatory practices. Being morally prudent brings no guarantees. And what normative ethics could? What it does, however, is raise the chances that one will succeed in doing right.

Let's further analyze Jones's moral tactics in this situation. Even though resisting her tendency to lie out of anxiety requires immediate action, it is *itself an end*, and it requires suitable means to succeed in doing it. Doing her personal duty here requires internal prudent action. Specifically, in order for Jones to succeed in following 'Resist your tendency to lie out of anxiety' she must 'Interpret seemingly negative present events in the best light'.[46] So not only does morality depend on prudence, but where external prudent action requires internal prudent action *even doing what's morally prudent requires prudence*. Thus the prudence dependency thesis is further confirmed. If Jones had not reappraised the situation, she likely would have lied due to her anxiety, or ruined her job chances in some other way.

However, this particular internal moral tactic might not be best for Jones. And two morally prudent advisors might offer different counsels for her case. But does this not make moral prudence subjective? No. Even two highly skilled and experienced doctors might give different diagnoses and prescriptions for the same patient without clinical medicine being a subjective matter.[47] An ethics that systematically incorporates moral prudence, at least in respect of giving objective counsel, would be similar. Also, with psychologists finding more and more means for improving performance another tactic might suit Jones better. But note, we are only able to turn to

[46] To forestall a common objection here, I am not claiming that she must *consciously and deliberately* follow these principles at this time, just follow them. If she is a prudent agent by the time of the interview she has internalized them.

[47] As Albert Jonsen and Stephen Toulmin state, two doctors 'may offer different diagnoses and treatment proposals for one and the same case. When this happens no conclusive evidence or arguments need be available to choose between their "readings"; but this does not mean that their judgments are subjective or uncheckable', *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley: University of California Press, 1988), 41.

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psychological research to guide Jones in her action because prudence is considered a relevant normative source here. Turning to Jones's external moral tactics, these counsels are drawn from the work of job placement specialists. So another directly relevant practical field outside ethics has worked out many effective tactics for dealing with such situations.

For ethics to be most usefully action-guiding it must turn to knowledge outside the moral range. And only when we see that morality practically and systematically depends on prudence does this become possible for ethics. Prudent counsels from special fields outside ethics can be studied, systematically integrated, then be more fully understood in their relations to morality by ethics. Lastly, clearly someone like Jones will have to have prepared for a situation like this. A single supreme principle of morality obviously wouldn't have served her in the process. So Jones must become more prudent in the areas of life in which she wishes to succeed. If one of her goals is to be moral, she should carefully consider the action-guiding *prudence dependency principle*: Be prudent in order to succeed in doing right.

Unfortunately, since ethics is now fixated on morality, it is unable to even point her in the direction to successfully do what's right. But a *phronetic ethics* – derived from the Greek word for prudence, 'phronesis' – one that systematically works out moral matters with the understanding that morality depends on prudence, can do so.

12. Intuitionism and Moral Theory

Anti-theorists performed a valuable service by critiquing moral theory. They have shown that there isn't much that is workable among proposals for moral decision procedures. This has opened the door for intuitionism to return to normative theorizing, and for introducing considerations outside morality, such as prudence. But ultimately, intuitionists and anti-theorists must part ways where action-guidance is concerned. Here's why. A contemporary anti-theorist states, 'the goal of ethical inquiry is to improve moral practices, but this is not achieved by giving a systematic account of an underlying normative structure'.[48] I would say this is half right. Not much in the way of improving moral practices will result by turning to moral theory's old decision procedures. But if we instead turn to the normative structure of prudence in order to serve moral ends, then, as we've seen, moral practices are definitely susceptible of improvement.

[48] Hämäläinen, op. cit. note 2, 541.

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I've taken some care in categorizing intuitionism in this paper. Many have declared that intuitionism is not a moral theory because it lacks a decision procedure. But there are ways in which intuitionism has more in common with moral theory than with anti-theory. Intuitionism, despite much press to the contrary, and despite Prichard's attempt to delegitimize moral explanations, is capable of justification and explanation of morality. It is simply not focused on devising a single principle that guides action, explains what makes right acts right, and justifies moral decisions *in one stroke*. Now few are for that. Since all the totalizing projects of moral theory have fallen apart, intuitionism suddenly appears more attractive.

But to move normative ethics forward, there is one more moral theoretical vestige which must be expunged. It is The Moral Theory Explanation Assumption: It is widely assumed that for a theory or principle to explain a given moral explanandum it must be capable of explaining *every other* moral explanandum. Intuitionism is a pluralistic theory. Explanations are available but there must be distinct explanations for different moral kinds.[49] For most of the twentieth century moral theorists have relied on *external* explanations of morality, assuming that something outside of morality, such as how much pleasure people might receive, will somehow explain what is moral.[50] Instead, on my view, each moral kind receives its own inquiry as to what about the nature of acts of that kind makes them wrong. So intuitionism favors plural *internal* moral explanations, and such may be provided.

13. Conclusion

How we decide in moral situations, we've found, has at least four components:

1. If we ask anything in a moral situation, we ask 'what should I do?'
2. If we think of morality at all, we identify the moral kind or kinds involved in the situation.
3. If we aim to satisfy a moral end, we consider what means in *our* particular case will satisfy that end.

[49] For a way of doing this see my Op. cit. note 32, Chapter 6.

[50] I draw here from Thomas Hurka, who makes the distinction between external and inherent, or internal, moral explanation and notes the recent dominance of the former in ethics, 'Common Themes from Sidgwick to Ewing', in Thomas Hurka (ed.), *Underivative Duty: British Moral Philosophers from Sidgwick to Ewing* (Oxford: Oxford University Press, 2011), 20–24.

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4. If we wish to succeed in meeting a moral end, we must act prudently.

There are all kinds of helps to moral deliberation. Intuitionism, as I see it, agrees with anti-theorists that any number of considerations can lead one to do what's right. There is no single necessary and uniquely correct way to make a moral choice. So there is no decision procedure. However, recognizing the moral kind or kinds in a moral situation is necessary to get anything right about the situation. This is so whether we consult our conscience, our traditions, or ask what the Categorical Imperative, the principle of utility, or the Ideal Observer has to say about the situation.

To successfully do what's right, however, agents must necessarily identify and follow suitable means to the moral end. That is, they must be minimally morally prudent. Only a normative ethics that acknowledges that morality depends on prudence is capable of fully dealing with moral problems from the agent's perspective, and can go beyond the narrow perspective of the moral judge. And the sketch of *phronetic intuitionism* that I've given in this paper is what I believe is the most promising practically complete normative ethics.[51]

Once ethicists acknowledge the need of prudence in guiding agents, a whole new and varied world of practical possibilities opens up. Prudent principles then can be found to guide agents so they do what's right. Disciplines such as psychology, decision theory, tactics, and all the practical disciplines related to different areas of life can be consulted in order to inform minimally prudent agents what they must do in order to act as the highly prudent do.

How we decide in moral situations is we try to be morally prudent. Once ethical inquiry more fully understands this, we'll have a basis for learning how we *ought* to decide.[52]

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[51] If it is agreed that morality indeed does depend on prudence, then for modern moral theories to be normatively complete there would need to be phronetic Kantianism, phronetic utilitarianism, etc.

[52] I would like to thank the audience members at the *2013 Northern New England Philosophical Association Conference*, Dartmouth College, Hanover, NH for their helpful comments on an early draft of this paper.

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