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CONTRACTARIAN CONSTRUCTIVISM*

The focus of metaethical theory has shifted recently from a preoccupation with questions about whether moral judgments make factual claims and can therefore be said to be true or false, to a concern with questions about the nature of moral truths and facts. Today, even the most recalcitrant emotivists are willing to admit that truth can be predicated of moral judgments. This does not imply, however, that there is some independently existing state of affairs that makes these judgments true, since noncognitivist claim that alleged moral facts are nothing more than hypostatizations of our affective/conative reactions toward the world. Hence, moral judgments may be said to be true only in a pleonastic sense. To say, for example, that it is true (or is a fact) that lying is wrong is just to endorse whatever attitude or prescription one expresses (according to the particular noncognitivist theory in question) when one says that lying is wrong.¹

This separation of moral truth from reality is vigorously opposed by contemporary moral realists, who insist that truth can be predicated

* I wish to thank Russell Shafer-Landau for extensive and very helpful comments, and Allen Buchanan and Paul Hurley for their comments. Thanks also to Jeffrie Murphy, with whom I had conversations years ago that helped me to see the advantages of pursuing this line of thought.

¹ That there is a sense in which moral judgments can be said to be true was acknowledged even by such an early emotivist as C.L. Stevenson, who calls our attention to an "idiomatic sense" of 'true', according to which saying 'That's true' merely repeats the judgment referred to. Thus, when applied to a moral judgment made by another, it expresses agreement in attitude rather than agreement in belief—see his *Ethics and Language* (New Haven: Yale, 1944), p. 169. More recently, Simon Blackburn has defended the emotivist's right not only to speak of moral judgments as true, but also to say such things as, 'It's a fact that cruelty is wrong'. He has also proposed a more sophisticated theory of moral truth, according to which saying that a moral judgment is true expresses the judgment that the attitude expressed by the original judgment is a member of "a 'best possible set of attitudes', thought of as the limiting set which would

of moral judgments in a more substantial sense. Some argue that moral truths and facts are no different from scientific truths and facts in the most important sense. Moral facts are part of an independently given natural order, and we are justified in postulating their existence because this is necessary in order to provide the most plausible explanation of our observations and experiences. This is a very robust form of moral realism.² Other contemporary moral realists are more modest in their pretensions about a moral reality. While agreeing that true moral judgments represent correct cognitive responses to a reality that obtains independently of, and is capable of explaining, these responses, they nevertheless do not insist on grounding moral truths in what I shall call a *stance-independent* reality—that is, a reality that obtains independently of how we are disposed to respond to the world in terms of our affective or volitional responses. Although they acknowledge that moral facts are response dependent, they argue that only an impoverished conception of reality excludes such facts.³

Although I would like to think that moral judgments can be true in a more substantial sense than noncognitivists allow, I find the alternatives so far proposed implausible. The more radical form of moral realism proposed by contemporary American philosophers, which treats moral principles as causal/explanatory hypotheses, seems to me to rest on a misconception of the nature of moral principles (and therefore of moral truths). Moral principles are designed to regulate and direct human behavior, not to help us explain and predict

result from taking all possible opportunities for improvement of attitude." On this view, although ascriptions of truth to moral judgments are still expressive, they do not merely repeat (express the same attitude as) the original judgment. They express, rather a second-order critical attitude—a vast improvement over the simpler redundancy view—see *Spreading the Word* (New York: Oxford, 1984), p. 198.

² This kind of view has been defended by a number of contemporary moral realists. See, for example: Richard Werner, "Ethical Realism," *Ethics*, xciii (1983): 653–79; Nicholas Sturgeon, "Moral Explanations," in D. Copp and D. Zimmerman, eds., *Morality, Reason and Truth* (Totowa, NJ: Rowman and Allanheld, 1985), pp. 49–78; Peter Railton, "Moral Realism," *Philosophical Review*, xcv (1986): 163–207; Richard Boyd, "How to Be a Moral Realist," in G. Sayre-McCord, ed., *Essays on Moral Realism* (Ithaca: Cornell, 1988); and David Brink, *Moral Realism and the Foundations of Ethics* (New York: Cambridge, 1989).

³ John McDowell has proposed this kind of moral realism in a series of articles that includes: "Virtue and Reason," *Monist*, lxii (1979): 331–50, and "Values and Secondary Qualities," in T. Honderich, ed., *Morality and Objectivity* (New York: Routledge, 1985), pp. 110–29. For similar views, see Mark Platts, *Ways of Meaning* (New York: Routledge, 1979), ch. 10; Sabina Lovibond, *Realism and Imagination in Ethics* (Minneapolis: Minnesota UP, 1983); David Wiggins, *Needs, Values, Truth* (Cambridge: Blackwell, 1987), esp. chs. 3, 4, 5; and David McNaughton, *Moral Vision* (Cambridge: Blackwell, 1988).

actions and social events.⁴ On this score, the noncognitivists seem to me clearly correct. They also seem to me correct in denying that there are any stance-independent moral facts. Indeed, I take this to be the essential truth in their antirealism about morality. Thus, insofar as the more modest form of moral realism proposed by recent British philosophers concedes this point, this counts in its favor. But these moral realists also embrace a "Wittgensteinian" conception of truth, according to which the truth conditions (or at least, assertability conditions) of moral judgments are determined by the social consensus that underwrites a community's moral practices. This, together with their denial that we can have access to an objective point of view that transcends particular social practices, creates an undesirable undertow pulling one in the direction of moral relativism.⁵

⁴ Criticisms along these lines are offered by Sayre-McCord, "Moral Theory and Explanatory Impotence," in Sayre-McCord, ed., *Essays on Moral Realism* (Ithaca: Cornell, 1988), pp. 256–81; and David Copp, "Explanation and Justification in Ethics," *Ethics*, c (1990): 237–58. They argue that any explanatory role that moral principles might play is merely incidental to their primary function and can provide no justification of them as action guides. I agree with the direction of these criticisms. For criticisms aimed more directly at the claim that moral principles are explanatorily necessary, see Gilbert Harman, *The Nature of Morality* (New York: Oxford, 1977), ch. 1, and "Moral Explanations of Natural Facts—Can Moral Claims Be Tested against Moral Reality?" *Southern Journal of Philosophy*, Suppl. Vol. xxiv (1986): 57–67; David Zimmerman, "Moral Realism and Explanatory Necessity," in Copp and Zimmerman, pp. 79–103; and Warren Quinn, "Truth and Explanation in Ethics," *Ethics*, xcvi (1986): 524–44.

⁵ For this and other criticisms, see: Blackburn, "Rule-Following and Moral Realism," in Holtzman and Leich, eds., *Wittgenstein: To Follow a Rule* (New York: Routledge, 1981), pp. 163–87, *Spreading the Word*, chs. 5–7, and "Errors and the Phenomenology of Value," in Honderich, ed., pp. 1–22; Robert L. Arrington, *Rationalism, Realism, and Relativism* (Ithaca: Cornell, 1989), ch. 4; and Crispin Wright, "Moral Values, Projection and Secondary Qualities," *Proceedings of the Aristotelian Society*, Suppl. Vol. LXII (1988): 1–26. Wiggins, who defends this sort of view, explicitly acknowledges its relativistic implications, but does not see this as posing a problem (see Wiggins, *op. cit.*, pp. 160–61 and 203). Critics do see this as a difficulty, however. Blackburn complains that it limits the freedom of the individual to dissent from the herd (see "Rule-Following and Moral Realism," p. 171). Wright questions whether it can adequately account for extensive moral disagreement between cultures (pp. 9–10). And Arrington argues that a consistent Wittgensteinian approach requires conceptual moral relativism rather than moral realism.

Recently, Michael Smith and Mark Johnston have proposed versions of dispositional moral realism that ground the appropriate responses in a theory of substantive practical reason rather than the social consensus underlying moral practices. See their contributions to the symposium, "Dispositional Theories of Value," *Proceedings of the Aristotelian Society*, LXIII (1989): 89–111 (Smith) and 139–74 (Johnston). I find their views to rest on highly contentious claims about the dictates of substantive practical reason. Smith argues that just as we are required by reason to desire the means to our ends, so are we equally required by reason, if we believe someone to be in pain, to desire to relieve it (pp. 108–09). Johnston argues that just as "one who infers to the best explanation of phenomena" is thereby

My aim in this paper, however, is neither to demonstrate the inadequacies of these forms of moral realism nor to refute noncognitivism. Criticisms of these views are already abundant in the literature, and they are convincing enough, in my view, to make one look for another option. My purpose, therefore, is to propose an alternative conception of the nature of moral truths and facts. *Contractarian constructivism*, as I shall call it, holds that moral truths are most plausibly construed as truths about an ideal social order, rather than the natural (or some curious nonnatural) order of things. It is true (or is a fact) that a certain kind of act is wrong, for example, just in case a social order prohibiting such acts would be chosen by rational contractors under suitably idealized conditions. This conception was suggested—but then quickly backed away from—by John Rawls⁶ in his John Dewey lectures. According to the view there elaborated, what the moral facts are—for example, which social institutions are just and unjust—is the product of a process of construction in which rational agents, under idealized conditions, seek to reach an agreement on principles for regulating their relationships and behavior toward one another. The objectivity of the moral principles so constructed consists not in their being grounded in an independently existing moral order that explains why the process of construction leads to an agreement on these principles. Rather, the objectivity of

being “substantively reasonable” about a theoretical matter, so “one who jumps into a swimming pool to save his drowning father-in-law even though it will mean getting his pants wet” is similarly manifesting substantive practical reasonableness (pp. 161–62). Johnston acknowledges that “important aspects of what is substantively reasonable are essentially contested,” and he adopts a response-dependent notion of substantive reason: “*y* is a substantive reason for/against valuing *x* iff we are disposed stably to take it to be so under conditions of increasing information and critical reflection” (p. 162). He glosses this with: “the extension of ‘we’ in the present response-dependent account is to be determined by including with us all who would stably converge on the same judgments of substantive reasonableness under increasing information and critical reflection” (p. 169). Thus, it is not clear that his version escapes the pull toward relativism.

⁶ “Kantian Constructivism in Moral Theory,” this JOURNAL, LXXVII, 9 (September 1980): 515–72. Immediately after suggesting the kind of constructivist theory about the nature of moral truths and facts which I shall elaborate in this paper, Rawls begins to shy away from committing himself to such a theory, suggesting that “it seems better to say that in constructivism first principles are reasonable (or unreasonable) than that they are true (or false)” (p. 569). In a later work, he retreats even further from this brief flirtation with moral ontology, saying that “in what I have called ‘Kantian Constructivism’, we try to avoid the problem of truth and the controversy between realism and subjectivism about the status of moral and political values”—“Justice as Fairness: Political Not Metaphysical,” *Philosophy and Public Affairs*, xiv (1985): 223–51; see p. 230. In what follows I hope to show that his timidity about tackling the philosophical problem of moral truth is unfounded.

these moral principles consists simply in their rational acceptability from an impartial social point of view.

I believe that this conception of the nature of moral truths and facts has not received the development it deserves. Rawls's disinclination to become embroiled in metaphysical/metaethical issues, and his preference for addressing more practically oriented normative questions, prevented him from developing this conception himself. This is unfortunate because, as I hope to show, it has a number of important advantages over other accounts of moral truths and facts. After setting out the essential elements of the theory (in part I), I explain (in part II) the sort of ontological status it gives moral facts and the sense in which it underwrites the possibility of objective moral truths. Finally (in part III), I defend the theory against expected objections.

I

Contractarian constructivism conceives of moral truths as truths about an ideal social order rather than truths about the natural order of things. This social order consists in a set of norms and standards specifying that certain kinds of acts are required (duties and obligations) and/or that certain traits of character are to be exemplified (virtues), and it is ideal in the sense that it is rationally preferable to alternative social orders. It is rationally preferable from a social point of view, that is, from the point of view of a collection of individuals seeking to reach an agreement on limits to be placed on the pursuit of their individual aims and interests in the context of social interaction and on reasonable terms for ongoing social cooperation. The moral principles that define this ideal social order are rationally preferable when viewed as specifying terms for mutually acceptable social interaction which are to be publicly acknowledged and advocated, and inculcated by various means of social internalization. They are not necessarily rationally preferable from the point of view of an individual seeking to adopt personal action guides that will enable one best to promote one's own well-being, although it can be argued that it is rational for individuals to prefer that these principles be generally observed in the society in which they live and to support this general observance in various ways.⁷

⁷ Here, I disagree with David Gauthier and agree with those externalists who argue that moral requirements apply to individuals even when they have no reason in terms of their own aims or interests to comply with them. According to contractarian constructivism, moral requirements are rational requirements only in the sense that individuals taken collectively, and under idealized conditions, have reason to choose them as social action guides. Whether it is rational for individuals to comply with them is a separate issue which in no way bears on their status as moral requirements. For a defense of this sort of externalism see Railton, pp. 166–71, and Brink, ch. 3. For Gauthier's view, see his *Morals by Agreement* (New York: Oxford, 1986).

According to contractarian constructivism, the ideal social order described by moral truths is a product of construction, not an independently given moral order. What the moral facts are—for example, which acts are wrong—is determined by which principles would be chosen by the hypothetical agents of construction. It must be noted, however, that the moral principles chosen by the hypothetical contractors are viewed by them as *action guides*, not as *truth claims*. The agents of construction are not to be conceived of as trying to reach an agreement on which moral principles are true, since apart from their agreement there are no antecedently given moral truths for them to discover. Rather, they determine through their choices which moral principles are true—although, as I shall now explain, only indirectly. In order to understand the relationship between the truth of moral principles and the choices made by the hypothetical contractors, we must note that moral principles have a dual nature in that any moral principle can be construed either as an action guide or as a truth claim. For example, the principle that lying is wrong can be understood as expressing a prescription against lying: do not tell lies. And it can also be understood as asserting that acts of lying have a certain character—namely, that of being wrong. Contractarian constructivism views this latter assertion as the claim that a prohibition of lying would be included in any set of norms agreed upon by the hypothetical contractors. The moral principle characterizing lying as wrong (the moral principle qua truth claim) is true just in case a moral principle prohibiting or condemning lying (the principle qua action guide) is the object of a certain kind of rational social choice.

Thus, contractarian constructivism views moral truths as truths about what norms and standards hypothetical contractors would have reason to choose. It is true that lying is wrong just in case there is reason for human beings, from an idealized social point of view, to choose norms that prohibit lying.⁸ This is to conceive of moral truths as practical truths rather than theoretical truths that we are justified in accepting because of the explanatory necessity of positing them. Practical truths are truths about what there is reason, for some individual or group of individuals, to prefer, choose, or do, from some point of view. The relevant point of view will generally be indicated by the context of discussion. It may be a fairly specific point of view, such as that of satisfying certain interests or aesthetic tastes, choosing among objects designed

⁸ I shall discuss the problems associated with trying to specify a suitable but normatively unbiased idealization in part III.

to serve a particular function, or adopting the appropriate means by which to pursue some chosen goal. Or it may reflect more general prudential concerns, such as the interests we have in preserving our economic security and our physical and psychological well-being. There is also such a thing, I shall suggest, as the moral point of view.

The following are examples of practical truths in this sense: Fyodor Dostoyevsky's novels are worth reading; knives that easily lose their edge are no good; if one is overweight, one ought to diet and exercise; smoking is bad for one; kindness is a virtue; lying is wrong. Notice that practical truths need not directly assert the existence of reasons for preferring, choosing, or doing something. They are truths about practical reasons only in the sense that the existence of such reasons is included in their truth conditions. A novel is worth reading only if there is reason for anyone who enjoys literature to read it. That smoking is bad for one entails that there is reason for one not to smoke. Moral truths, however, are only indirectly about practical reasons, according to contractarian constructivism. Considered directly, they are truths about the conformity or nonconformity of actions, persons, and institutions with certain norms and standards—namely, those which individuals taken collectively have reason to choose (when subject to certain idealizing conditions), for regulating their relations and interactions with one another.

Those who embrace an internalist view about the connection between moral requirements and reasons for action might also want to insist that moral truths entail that individuals have reason to comply with the requirements described by such truths. The practical conception of moral truths, however, is not committed to this kind of strong internalism. The most that need be said is that individuals have reason to conform their behavior to certain norms from *the moral point of view*—here defined as the point of view of intending to comply with the regulatory constraints and live up to the ideals of character that individuals collectively have reason to choose (under idealized conditions). In this respect, contractarian constructivism may be said to endorse a weak form of internalism regarding the connection between moral requirements and ideals and reasons for choosing and acting.

Practical truths are discovered through practical reasoning. Whereas theoretical reasoning aims at determining what to believe, practical reasoning aims at determining what to choose.⁹ Because the-

⁹ Choosing must be understood broadly in this context, as including not just a selection between alternatives that is immediately translated into action (as when one is asked to choose either soup or salad), but any case of provisionally making up one's mind about what to do. This includes such things as forming intentions, plans, and preferences.

oretical reasoning is largely preoccupied with attempting to discover the causal relations that explain why things happen as they do when they do, it typically takes the form of an inference to the best explanation. Such inferences appeal to considerations of coherence between the proposed explanatory hypothesis and other beliefs, and the attempt to preserve such a coherence involves mutual adjustments and revisions necessary to achieve a reflective equilibrium among these beliefs. Theoretical reasoning in the empirical sciences is primarily controlled by the constraint of coherence with our observational beliefs, because the aim here is to improve our understanding of the world and because (we believe) such observations involve a causal interaction with the world. Practical reasoning is primarily controlled by the constraint of coherence with our intrinsic (that is, unmotivated) desires, because our aim here is to improve the satisfactoriness of our lives. Intrinsic desires play a role in practical reasoning analogous to that played by observational beliefs in scientific reasoning: though by no means immune from revision, they nevertheless play a dominant role in such reasoning. Intrinsic desires, together with causal beliefs, lead to the formulation of intentions and plans of action for realizing our desired ends. But these plans may have to be abandoned or revised if they are found to frustrate or interfere with the satisfaction of other desires. And if no acceptable means can be found for achieving a particular desired end, practical reasoning may lead us to abandon this end and perhaps even to extinguish or suppress the desire. Thus, practical reasoning may be said to take the form of an "inference to the best means" that involves an attempt to achieve a reflective equilibrium among our beliefs and our desires.¹⁰

We discover that there would be reason for the hypothetical contractors to choose a set of norms that prohibits lying (and hence discover that the belief that lying is wrong is true) by constructing a warranted pattern of practical reasoning resulting in such a choice on their part.¹¹

¹⁰ This view of practical reasoning has been influenced by Harman's account in "Practical Reasoning," *Review of Metaphysics*, xxix (1975–76): 431–63. The notion that practical reasoning involves an inference to the best means is developed by Stephen Darwall in "The Inference to the Best Means," *Canadian Journal of Philosophy*, vi (1976): 49–58. Notice that on this conception of practical reasoning, no ends are taken to be fixed or unrevisable; one deliberates about and criticizes ends as well as means. Cf. John Dewey, *Theory of Valuation* (Chicago: University Press, 1939).

¹¹ Darwall (*ibid.*) argues that there are principles of inference governing practical reasoning, and that these have analogues in theoretical reasoning involving an inference to the best explanation. Following Rawls—in *A Theory of Justice* (Cambridge: Harvard, 1971)—he suggests four such principles: a principle of effective means, a principle of inclusiveness, a greater likelihood principle, and a variation of the principle of inclusiveness which is an analogue of the principle of greater explanatory power. Let us say that practical reasoning is *warranted* if it observes whichever principles of this sort are correct.

As we have seen, the construction of such a practical inference must observe certain coherence constraints that require one to preserve a reflective equilibrium among the beliefs and desires of the hypothetical contractors. Notice, however, that this practical inference will not include any moral beliefs. It will include certain desires that all (normal) human beings can be presumed to share, such as the desires to be free from pain and to be one's own master, and it may also include certain beliefs about what constitutes a good life for a human being (beliefs which are sometimes included in the class of moral beliefs on a broader conception of morality). But it will not include any moral beliefs about what is right and wrong in our interactions with others or about which traits of character are other-regarding virtues. The hypothetical contractors are not presumed to have any such beliefs. Nor is it necessary to include these beliefs in the reasoning that would lead them to choose, for example, a norm that prohibits causing pain to others when this serves no purpose other than one's own amusement, or a norm that prohibits both individuals and social groups from enslaving others.¹²

II

Contractarian constructivism is a metaethical theory about the subject matter of moral judgments, about what sort of facts makes them true. It is not intended as a normative theory that tells us which general moral principles are true; nor does it specify a method for determining this (although, as we have seen, it has obvious implications concerning this). In order to understand the difference between contractarian constructivism and contractarianism as a normative theory, consider the following contractarian principle: an act is wrong if and only if it would be prohibited by any set of norms chosen by (suitably idealized) hypothetical contractors. When this principle is viewed as expressing a normative ethical theory, the second half of the biconditional—call this the *C* condition—specifies a criterion for determining when (it is true that) an act is morally wrong. So interpreted, the principle does not commit one to any particular metaethical theory about the nature or ontological status of moral wrongness. It is compatible with the view that moral wrongness is an irreducible, nonnatural property, and it is even consistent with a metaethics that views attributions of moral wrongness as ways of projecting one's disapproval onto actions. (For the projectivist, asserting

¹² I shall argue (in part III) that the practical reasoning through which one establishes the truth of moral principles (by demonstrating that the hypothetical contractors would have reason to choose certain norms) makes no appeal to considered moral beliefs in reflective equilibrium with other moral and nonmoral beliefs.

the contractarian principle expresses one's approval of condemning acts just in case they satisfy the *C* condition.) These are the kinds of metaphysical/metaethical issues with respect to which Rawls, as a normative contractarian, declines to take sides. But what I am calling contractarian constructivism *is* a theory about the ontological status of moral wrongness. It holds that acts that satisfy the *C* condition are wrong simply because that is what moral wrongness consists in.

The antirealism espoused by noncognitivists argues that alleged moral facts are nothing more than reflections of the judge's affective/conative reactions to nonmoral states of affairs; hence they have no substantial existence. Insofar as contractarian constructivism proposes a conception of moral facts as more substantial than this, it seems to endorse moral realism. But the issue is complicated by its insistence that moral facts are constructed by the hypothetical contractors and have no existence independently of this. For this reason, classifying it as a form of moral realism may be misleading.

There is one sense, however, in which its conception of moral facts is clearly realistic. Some recent moral realists have defined the view they wish to endorse as holding that there are moral truths that obtain independently of our having any reasons or evidence for believing them.¹³ Since contractarian constructivism makes moral facts evidence independent in this sense (it may be, for example, that the norms chosen by the hypothetical contractors would prohibit capital punishment even though no one has been able to construct a convincing argument to establish this), it counts as a form of moral realism on this definition. It should be noted, however, that if moral realism is defined in this way, some theories will count as examples of moral realism which traditionally have been understood as denying that there are any objective moral truths. Consider, for example, a crude subjectivism according to which something is good relative to a particular person just in case he happens to desire it, or a naive relativism that holds that what is right and wrong is determined for each individual by conformity or nonconformity with the social conventions of the group in which she regularly participates. Such theories entail that moral judgments are objectively true or false, since whether a given object is desired by a particular person and whether

¹³ For example, Brink defines moral realism as the view that "(1) there are moral facts or truths and (2) these facts or truths are independent of our evidence for them" (*op. cit.*, p. 17). Cf. Railton, p. 172, and Boyd, p. 182. Brink acknowledges that his definition states a necessary but not sufficient condition for moral realism, since there are some views which satisfy these conditions which he is willing to regard as antirealist. But he claims that he can identify no further conditions "that do not seem ad hoc" (p. 18). I attempt to identify such a condition below.

a given act conforms to the social conventions of the agent's society are objectively determinable matters. Nevertheless, such theories are considered to be antirealistic because they deny that there are any moral truths that obtain independently of the psychological stances adopted toward the world by human beings. This suggests that moral realism requires that moral truths be not only evidence independent but mind independent as well.

The notion of mind independence is ambiguous, however, because moral truths and facts can be mind *dependent* in two ways. Let us say that moral facts are *weakly* mind dependent if they are constituted by states of affairs that include mental states as essential components. Thus, hedonistic utilitarianism takes moral facts to be weakly mind dependent, since it makes feelings of pleasure or pain essential ingredients of all moral facts. But hedonistic utilitarianism does not construe moral facts as mind dependent in another sense. Let us say that moral facts are *strongly* mind dependent if moral facts supervene on other facts (including psychological facts) only as a consequence of these other facts being made the object of some intentional psychological state, such as a belief or an attitude (perhaps under idealized conditions). Thus, the ideal-observer theory (or one version of it) claims that moral facts are strongly mind dependent because, according to it, moral facts supervene on other facts only in virtue of the fact that an ideal observer would have a certain psychological reaction toward these other facts. According to this theory, if hedonistic utilitarianism is true, this is because an ideal observer would have a certain psychological response (such as disapproval) toward acts insofar as they fail to maximize pleasure and the absence of pain. But although one who accepts hedonistic utilitarianism as a normative ethical theory *might* accept an ideal-observer theory as providing the correct metaethical account of why (or, perhaps better, how) wrongness supervenes on the failure to maximize pleasure, one could also claim that this supervenience is simply part of the natural order of things—that is, one could adopt hedonistic utilitarianism not just as a normative theory about what makes acts right or wrong, but also as a metaethical theory about the ontological nature of moral facts. According to the latter view, the moral wrongness of acts is directly constituted by their failure to maximize pleasure, rather than by an ideal observer's disapproval of such acts.

This would be to adopt a realistic account of the connection between the failure to maximize pleasure and wrongness. Thus, moral realism is compatible with holding that moral facts are weakly mind dependent. To hold that moral facts are strongly mind depen-

dent, on the other hand, seems incompatible with genuine—or, at least, a robust form of—moral realism. Insofar as the moral wrongness of acts that fail to maximize pleasure is taken to be constituted by an ideal observer's disapproval of such acts, we have a form of moral idealism rather than realism. For in that case the connection between failure to maximize happiness and moral wrongness is not a *real* connection in nature, but rather one that we (under idealized conditions) *project* onto it.¹⁴ Henceforth, I shall refer to facts that are not strongly mind dependent as *stance independent*. A fact will be said to be *stance dependent* just in case it consists in the instantiation of some property that exists only if some thing or state of affairs is made the object of an intentional psychological state (a *stance*), such as a belief or a conative or affective attitude. Conversely, a fact will be said to be *stance independent* just in case it is not dependent in this way on some psychological stance. Contractarian constructivism and the ideal-observer theory make moral facts evidence independent but not stance independent. Theories of this sort are allied with the more robust forms of moral realism in opposing the kind of anti-realism endorsed by noncognitivists, who deny that moral judgments may be conceived of as genuine cognitive responses even to stance-dependent moral facts. Thus, they might be considered weak forms of moral realism. Nevertheless, the acknowledgement of the stance-dependent nature of moral facts seems to constitute an important concession to noncognitivist antirealism. In any case, the significance of the differences between these theories and the more radical forms of moral realism suggests that they deserve a label of their own. I suggest *moral constructivism*.

As here conceived of, moral constructivism holds that moral facts are the product of human volition (broadly conceived), in that they obtain only as a consequence of the fact that human beings do, or would under idealized conditions, adopt certain attitudes or prefer-

¹⁴ Notice, however, that (on this sort of view) the attitude that one projects onto an act when one judges it to be wrong is that of the ideal observer (or the hypothetical contractors). The moral deliberator who concludes that some act is wrong does not project *her* attitude onto the act. Rather, she judges that it is wrong, because, say, it causes unnecessary pain. And if an ideal observer would indeed disapprove of causing unnecessary suffering, then her judgment will be a case of detecting the wrongness of the act. Moreover, her judgment will explain her disapproval of the act (not the reverse, as the noncognitivist projectivist would have it). When one looks at such a view from this perspective, one may be inclined to classify it as a form of moral realism rather than projectivism. As I acknowledge below, there are other reasons for considering the ideal-observer theory to be a weak kind of moral realism even though it differs importantly from more robust forms of moral realism.

ences or make certain choices or decisions with respect to (possible) states of affairs.¹⁵ Thus, insofar as Immanuel Kant suggests that the rightness or wrongness of an act is constituted by whether or not a rational person can will its maxim to be a universal law, he may be viewed as another example of a moral constructivist. The dispositional, or response-dependent, theories of moral facts proposed by recent British moral realists also count as moral constructivism.

The versions of moral constructivism so far mentioned are all designed to provide a basis for the distinction between right and wrong that is capable of grounding objective moral truths. Notice, however, that moral constructivism can also take a subjectivist or relativist form. R. B. Brandt proposes this kind of constructivism when he suggests that rightness or wrongness is to be determined, for each individual, by whether the act in question is permitted by the moral code which that individual would, if fully informed and rational, prefer to see adopted in the society in which she expected to live. Gilbert Harman's version of moral relativism can also be considered a form of constructivism insofar as he claims that what is right is determined, for the members of each social group, by the conventions to which they intend to (and therefore have reason to) adhere.¹⁶ These versions of moral constructivism allow that moral judgments can be said to be true or false insofar as they are relativized to a particular judge or set of social conventions. But they do not allow that there are any nonrelativized truths about what is right and wrong that must be accepted by all persons and social groups regardless of their particular attitudes and preferences, even when they are fully informed and reasoning correctly. This is because they deny that there is any objective basis for the application of moral categories. The applicability of the categories

¹⁵ The term 'moral constructivism' has also been used as a label for a quite different sort of view. Brink defines it as the view that: "(1) There are moral facts or truths, and (2) these facts or truths are constituted by our evidence for them" (*op cit.*, p. 20). Thus, he applies this label to coherence theories of moral truth, according to which the truth of a moral belief consists in its coherence within a system of moral and nonmoral beliefs that are in reflective equilibrium. The view that I am calling 'moral constructivism' holds that moral truths are evidence independent, though not stance independent.

¹⁶ See Brandt, *A Theory of the Right and the Good* (New York: Oxford, 1979), p. 194; and Harman, *The Nature of Morality* (New York: Oxford, 1977), pp. 131–32. In treating these views as examples of subjectivist moral constructivism, I am ignoring the noncognitivist elements in both these theories, which precludes treating moral judgments as making any kind of straightforwardly factual claims. Thus, according to Harman, one cannot fully judge that an act is morally wrong unless one endorses the social conventions violated by that act.

of right and wrong is determined, for each individual or society, by which set of social conventions that individual or society happens to prefer. Objectivist versions of moral constructivism support the view that there are objectively grounded universal moral truths because, according to them, that a moral category applies to a certain kind of act is determined by the outcome of its being made the object of an objective (that is, impartial), rather than a merely personal or parochial, stance. Although they do not attempt to ground moral truths in an external (that is, stance-independent) reality, they view them as objective because they are (1) evidence independent and (2) grounded in an objective psychological stance.

On a constructivist interpretation, moral facts and truths are not, however, capable of the kind of objectivity that characterizes scientific facts and truths—at least, not if scientific realism is true. On that view, the objectivity of scientific truths consists in the fact that recognition of them is imposed on us by an external reality. It is external because it is what it is no matter what we believe, or have reason to believe, about it and because it has the character it has even if we should prefer it to be otherwise. Thus, the objectivity of scientific truths derives from the fact that they describe a stance-independent reality. This reality imposes itself on us through the causal control it exercises over our experiences and beliefs. We feel compelled to recognize certain truths about it because we find it necessary (insofar as we choose to be guided by reason and evidence) to postulate these truths in order to provide the most plausible explanations of our experiences and observations (which are also largely independent of our will). This is how the objectivity of scientific reality manifests itself.

According to contractarian constructivism, moral truths derive their objectivity from the fact that they describe an objectively preferable social order. Their objectivity does not derive from their describing an externally imposed reality; for the “reality” they describe is a (hypothetical) social creation. Like scientific objectivity, however, moral objectivity can be said to manifest itself as a constraint on our beliefs—although it constrains our moral beliefs only in virtue of constraining our (hypothetical) wills. What constrains our choice (insofar as we imaginatively adopt the point of view of the hypothetical contractors) is the necessity of adopting an objective (that is, impartial) point of view. Instead of allowing our beliefs to be constrained by an objective reality, we allow our will (and,

through it, our moral beliefs) to be constrained by an objective point of view.¹⁷

Attempts to account for the objectivity of moral truths by grounding them in an external moral reality have not been successful. The nonnaturalism proposed by the British intuitionists led to the postulation of queer entities whose relationship to natural facts and to human motivation remains mysterious, if not inexplicable. Traditional (analytical) ethical naturalism faces all the problems associated with reductionism and, in particular, the charge that it substitutes definition for argument in the defense of substantive moral principles. And the nonreductionist version of ethical naturalism proposed by recent American moral realists falsely assimilates moral truths to scientific truths by construing moral principles as causal hypotheses intended to explain individual actions and social events, instead of normative principles intended to regulate human behavior. The most plausible version of traditional ethical naturalism is, in my view, the ideal–observer theory. But that is because, like contractarian constructivism, it makes moral facts and truths evidence independent without requiring them to be stance independent. Thus, I am inclined to share the skepticism expressed by noncognitivists about the existence of a stance–independent moral reality.

I do not think this means, however, that we must abandon the attempt to show that moral truths can be objectively grounded in a stronger sense than any noncognitivist account of moral truth and objectivity is able to accommodate.¹⁸ The antirealism espoused by noncognitivists does not allow the postulation of alleged moral facts and truths any role at all in explaining the formation of moral beliefs. Thus, our moral beliefs cannot be controlled or regulated by a moral reality (not even a stance–dependent moral reality). There is in this sense no external constraint on the formation of our moral beliefs according to noncognitivist antirealism. Insofar as contractarian constructivism does propose such an external constraint, it attempts to

¹⁷ This account of moral objectivity has profited from suggestions made by Thomas Nagel in *The View from Nowhere* (New York: Oxford, 1986), ch. 8. Like Kant, Nagel holds that “ethical thought is the process of bringing objectivity to bear on the will.” Thus, “instead of bringing our thoughts into accord with an external reality, we try to bring an external view into the determination of our conduct” (p. 139).

¹⁸ The most complete and compelling noncognitivist account of moral objectivity is that developed by Allan Gibbard in *Wise Choices, Apt Feelings* (Cambridge: Harvard, 1990). But even this account will leave genuine moral objectivists unsatisfied. My aim here has been to show how they might be satisfied short of assimilating moral objectivity to scientific objectivity.

account for the genuine objectivity of true moral beliefs while avoiding the difficulties facing more robust forms of moral realism.

III

Considered simply as a metaethical theory about the nature of moral truths, contractarian constructivism is not committed to providing a specific method for determining *which* moral principles are true. Nevertheless, it does imply that, in general, the correct way to discover which principles (qua propositions) are true is by determining which principles (qua prescriptions) would be chosen by the hypothetical contractors. Thus, it might be thought to be vulnerable to many of the same objections that have been raised against contractarianism as a normative ethical theory. For example, critics have complained that contractarians fail to provide any good reason for thinking that acts prohibited by the norms agreed on by the hypothetical contractors must be wrong. It would be absurd, they argue, to suggest that this is because hypothetical contracts (that is, contracts that one has not in fact made but would have made under certain circumstances) are somehow morally binding.¹⁹ Contractarian constructivism is clearly not committed to such an absurd view. Although it makes the wrongness of lying a consequence of the fact that lying would be prohibited by the norms agreed on by the contractors, this is not because an obligation to refrain from lying is created by such an agreement in the way that promises create obligations. Rather, the wrongness of lying (like the wrongness of breaking a promise) is a consequence of this agreement simply in the sense that being prohibited by such an agreement is what its moral wrongness consists in.

It is not so obvious, however, that contractarian constructivism can avoid the chief objection leveled against contractarianism. This is that no normatively neutral description of the contractors and their circumstance is sufficient to make it seem plausible that a particular set of moral principles would be agreed on by them. The latter can be accomplished, it has been argued, only by subjecting the contractors to normatively loaded idealizing constraints. Thus, critics have charged that Rawls is able to make it seem plausible that the contractors would agree on his two principles of justice only because he characterizes them as cautiously rational (employing a maximin strategy), mutually self-interested (rather than, for example, having a concern for the common good), and desiring certain "primary goods" (but not others, such as friendship). Such a characterization of the contractors,

¹⁹ See, for example, Ronald Dworkin, "The Original Position," in Norman Daniels, ed., *Reading Rawls* (Stanford: University Press, 1989), p. 17.

it is said, prejudices the theory in favor of Rawls's particular conception of justice, and, more generally, in favor of nonconsequentialism and a rights-centered rather than a virtue-centered moral theory.

Before considering whether this sort of objection has force against contractarian constructivism as well, let me frankly acknowledge that I do not think it is possible for a metaethical theory about the subject matter of morality to be completely normatively neutral, although it is possible, I think, to avoid begging any *controversial* moral questions. (I shall return to this issue later.) In order to remain as normatively neutral as possible, the contractarian constructivist will want to propose idealizing conditions that ensure only (1) that the contractors adopt a genuinely objective, that is, impartial, point of view and (2) that whatever norms or standards would be chosen by them do not make obviously wrong acts right, or vice versa. Here one may appeal to certain moral paradigms, such as that lying, rape, and torture are wrong. Insofar as they guide us in attempting to discover the nature of moral wrongness, these paradigms may be thought of as fixing the reference of 'morally wrong'. If they are not observed, one might argue, there is no guarantee that one's theory will be a theory about the nature of *morality*.²⁰ The question then is whether a contractarian metaethical theory can remain at least minimally normatively neutral, while at the same time giving the hypothetical contractors sufficient reason to choose moral principles (qua prescriptions) that make our paradigm moral principles (qua propositions) true. What sort of characterization of the contractors and their circumstances will suffice for this purpose? One will want to require that the contractors be rational and fully informed about the relevant general facts. And it will also be necessary to impose some kind of constraint on them that captures the traditional conception of morality as consisting in a set of impartial constraints on individuals in the pursuit of their particular aims and interests. Different versions of contractarianism may attempt to accomplish this in different ways, however. For example, Rawls imposes a veil of ignorance on the contractors, whereas T. M. Scanlon²¹ imposes instead the constraint of having to choose only those rules which "no one could reasonably reject as a basis for informed, unforced agreement" (*ibid.*, p. 110).

²⁰ Here I agree with those who argue that unless *some* material or substantive constraints on the concept of morality are observed, one may end up being committed to recognizing as moral, principles (such as that it is wrong, in and of itself, to step on the lines of a pavement) that are unintelligible as such. Cf. Philippa Foot, "When Is a Principle a Moral Principle?" *Proceedings of the Aristotelian Society*, Suppl. Vol. xxvii (1954): 95–110, and "Moral Arguments," *Mind*, LXVII (1958): 502–13.

²¹ "Contractualism and Utilitarianism," in A. Sen and B. Williams, eds., *Utilitarianism and Beyond* (New York: Cambridge, 1982).

Insofar as these kinds of constraints prejudice the theory against ethical egoism, it must be acknowledged that contractarian constructivism cannot be neutral in this regard either. But this, I for one am prepared to accept, since I view "ethical" egoism as a theory about what makes acts rational, rather than moral.

If the contractors are to have any basis for choosing some social action guides rather than others, it will also be necessary to give them certain desires and preferences. But the contractarian cannot allow their choice of norms and ideals to be influenced by idiosyncratic or culturally shaped desires and preferences. This would be incompatible with holding that these norms are rationally preferable from an objective point of view. It may well be that the best way of ruling out the influence of such desires is with a Rawlsian veil of ignorance. This would allow the contractors to have only those desires shared by virtually all human beings, such as aversions to pain, injury, disability, and death, and longings for love, respect, economic security, and freedom.²² It is plausible to suppose, however, that any group of human beings motivated by such universal human desires would have reason to choose norms prohibiting such things as lying, rape, and torture. This much is admitted even by some who are otherwise inclined to adopt a relativist position.²³ If so, it would

²² As critics have pointed out, such a thick veil of ignorance has the consequence of obliterating all differences among the contractors, so that there is really no need for any bargaining or contract. One needs only to consider the choice of a single individual (just as the ideal-observer theory considers only the response of a single ideal observer). Thinking of the norms chosen by the hypothetical contractors as the outcome of an agreement may nevertheless serve as a heuristic device that helps to explicate the idea that these norms constitute mutually acceptable terms for social interaction.

²³ Harman, for example, claims that any moral code resulting from an implicit rational bargain can be expected to have a definite kind of content, since restrictions on such things as lying, cheating, stealing, and murder are necessary conditions for social stability and are therefore in the common interest of the members of any society. There is likely to be an even greater overlap between moral codes, he suggests, if one appeals to the principles of a critical (or ideal) morality implicit in the positive (or prevailing) morality of a particular social group. These principles can be constructed by systematizing the actual social conventions in terms of the fundamental principles presupposed by them, and then purging them of inconsistencies and conventions based on false factual assumptions. Norms permitting such things as slavery, the subjugation of women, and racial discrimination are unlikely to survive such a process of critical reflection, he argues (*op. cit.*, pp. 105, 110–12). It is even more plausible to suppose that any morality that is the product of a hypothetical agreement by rational contractors under idealized conditions will have a certain kind of content. David Richards has argued quite plausibly that any such morality will contain a number of quite specific substantive moral principles—see *A Theory of Reasons for Action* (New York: Oxford, 1971), chs. 9–11. Brandt is another relativist who admits that all rational persons would agree on a common core set of moral principles (*op. cit.*, p. 242).

follow, according to contractarian constructivism, that principles stating that such acts are wrong constitute objective moral truths.

It will be objected, however, that such a thin characterization of the contractors will not give them reason to choose anything at all like a moral code detailed enough to provide guidance in everyday life. They would have reason to choose only a few highly general *prima facie* moral principles.²⁴ Even if it is admitted that certain moral principles form a common core that would be shared by the moral code rationally preferred by any group of contractors motivated by these universal human desires, it can still be argued that the extent of this core is limited and that the core principles are indeterminate in their application. Even if all such moral codes contained, for example, requirements to refrain from lying and to aid those in distress, these moral norms may be interpreted quite differently, especially with regard to their stringency. Granted that there are circumstances under which one is not morally required to avoid lying, how are these to be defined? Just how great a sacrifice in terms of one's own interests is one required to make in order to prevent a serious harm to someone else? There may also be significant differences of opinion concerning how conflicting moral norms are to be weighed. Thus, trustworthiness may be considered such an important value by some people that they are willing to tolerate a considerable amount of suffering before permitting a lie or the breaking of a promise. It is difficult to see how such issues could be resolved by contractors choosing behind a Rawlsian veil of ignorance; for their resolution would seem to depend on an appeal to basic preferences with respect to which people are known to differ.

Although contractarian constructivism does not purport to provide a procedure for deciding which moral principles to accept as true or justified, let alone a method for resolving hard moral cases, it does intend to underwrite the possibility of objective moral truths. It is not necessary, however, for a moral objectivist to hold that there must be a determinate answer for *every* moral question. It seems perfectly acceptable to acknowledge that there may be no correct answer to questions about some hard moral cases. For borderline cases (for example: Just how great a sacrifice of one's own interests must one make in order to prevent the death of another?) and especially in cases of moral dilemma (for example: Ought one to tell the truth or prevent a certain amount of suffering in cases where these

²⁴ Cf. Thomas E. Hill, Jr., "Kantian Constructivism in Ethics," *Ethics*, xcix (1989): 752-70.

conflict?) there may simply be no truth or fact of the matter.²⁵ With respect to such issues, the hypothetical contractors might decide (it could be argued) to allow these matters to be resolved by social conventions to be adopted by particular social groups, after the veil of ignorance is at least partially lifted and they come to know their own particular preferences concerning how to weigh the conflicting values. This would allow for some degree of cultural relativity.²⁶ This minimal concession to relativism will not undermine moral objectivity, however; for moral objectivism requires one neither to insist that there is only one true morality (that is, only one complete moral code that is rationally preferable for all social groups) nor to claim that bivalence holds for all moral judgments. It suffices if it seems plausible that certain moral principles (qua action guides) constitute a common core that would be part of any social order chosen by suitably constrained hypothetical contractors.²⁷

But, it might be objected, will such a common core include anything beyond the paradigmatic but highly general *prima facie* moral principles whose truth is assumed in order to help us identify the subject matter of morality? Do we have reason to suppose that the contractors would choose more particular moral principles which specify what circumstances constitute acceptable exceptions to these general but defeasible moral principles, and which specify also how conflicts between such principles are to be resolved? Although some hard questions will remain irresolvable, it seems plausible to suppose that the contractors could resolve *some* of the issues relevant to making the paradigmatic moral principles more specific. It seems plausible, for example, that the contractors would choose a norm regarding

²⁵ This is well argued for by Foot in "Moral Realism and Moral Dilemma," this JOURNAL, LXXX, 7 (July 1983): 379–98.

²⁶ For a similar suggestion see Scanlon, p. 112.

²⁷ It has been suggested that a contractarian account of morality cannot adequately account for the wrongness of certain ways of treating nonhuman animals—at least if we hold that mistreating them is wrong because of the effects on the animals themselves, and not merely because of how this indirectly affects human beings or because such mistreatment of animals is likely to weaken our dispositions not to mistreat humans in similar ways. But the kind of contractarian account that we have been considering does not imply that the moral principles chosen by the hypothetical contractors are intended to apply only to our treatment of other humans. It can be argued that considerations of coherence (especially coherence among their attitudes) would lead the contractors to recognize that a norm that prohibits causing unnecessary suffering to humans must also condemn behavior that causes the same in other animals. It seems inconsistent to disapprove of treating humans in a certain way simply on the ground that this causes unnecessary suffering while not disapproving of the similar mistreatment of animals on precisely this same ground.

promise keeping which permits promise breaking when necessary to prevent serious harm (such as the risk of injury or death) but which does not permit promises to be broken just whenever this would result in somewhat better consequences. Thus, insofar as a form of utilitarianism does permit the latter, it is at odds with contractarian constructivism as well as common sense. Even if we adopt the kind of formal, or substantively neutral, conception of practical rationality I have proposed, it seems plausible to suppose that rational contractors would not choose a norm that permits promise breaking simply on act-utilitarian grounds, because in that case promises could not fulfill their purpose. This is another respect in which contractarian constructivism cannot remain completely normatively neutral.

Although, as I shall later argue, contractarian constructivism should adopt a thin conception of practical rationality that remains neutral on such issues as whether practical rationality involves adopting a maximin strategy (or constrained maximizing, as David Gauthier suggests, *op. cit.*), such a minimal conception of practical rationality seems sufficient to give the contractors reason to choose a norm requiring some minimal degree of mutual aid. Moreover, it seems plausible to suppose that they would agree that saving a human life at the cost of getting one's clothes wet is morally required (even if doing this at the cost of risking one's life or limbs is not). (Here I must simply disagree with those rugged individualists or libertarians who would deny this.)²⁸ Thus, although some hard cases will persist, the moral principles whose objective truth is underwritten by contractarian constructivism go well beyond the highly general paradigmatic moral principles.

Still, it might be objected, does not contractarian constructivism succeed in underwriting the objective truth of certain moral principles only because it assumes their truth to begin with? If, as I acknowledged earlier, we must appeal to certain paradigmatic moral principles to help us identify the subject matter of moral judgments, and if the contractarian constructivist's characterization of the hypothetical contract situation is designed to ensure that these principles will be made true by the contractors' choices, is not this just a covert form of intuitionism—an appeal to the self-evidence of these moral principles?

In considering this objection, it is important to note that contractarian constructivism does not pretend to provide a proof of the truth

²⁸ For arguments in support of the contention that rational contractors would choose the kind of more particular moral principles I have suggested, see Richards, *op. cit.*

of the paradigmatic moral principles. The hypothetical contract is not proposed as a way of testing and establishing the objective truth (or justifiability) of certain moral principles, but rather (assuming their truth) as a way of explaining what their truth and objectivity might be thought to consist in. Here again contractarian constructivism differs markedly from contractarianism as a normative theory. The question posed for the latter kind of theory is: Why suppose that the contract device provides us with a test for moral truth? A normative contractarian might attempt to defend the use of this device on the ground that employing this criterion yields moral beliefs that cohere with our considered moral judgments, the general moral principles that explicate them, and certain relevant background theories—insofar as these are brought into a relationship of reflective equilibrium with one another.²⁹ This is problematic, however, since it is unclear why we should think that this sort of coherence constitutes evidence for the truth of a moral belief. The solution would seem to require a plausible theory about the reliability of considered moral judgments (those made under conditions known to be generally conducive to the formation of true beliefs) which requires us to postulate their truth as the best explanation for our having these beliefs. Such a theory has recently been proposed by the more radical contemporary moral realists discussed above. But for reasons mentioned briefly above (see footnote 4), and which cannot be elaborated on here, I do not find this appeal to explanatory necessity convincing.

Contractarian constructivism avoids this problem because it does not view the hypothetical contractors' choice of certain social norms as an infallible (or even a reliable) indicator of the moral wrongness of the acts prohibited by such norms. Viewed in that way, it would be appropriate to try to establish their reliability by showing that the moral principles made true by their choices are in reflective equilibrium with our considered moral judgments and other relevant beliefs and theories. Contractarian constructivism claims, however, that the moral wrongness of acts is *constituted* by their being prohibited by the norms chosen by the hypothetical contractors. The fact that an act violates such a norm is not just evidence of its wrongness; it is the truth maker for the claim that it is wrong.³⁰ Thus, the contractarian

²⁹ Cf. Daniels, "Wide Reflective Equilibrium and Theory Acceptance in Ethics," this JOURNAL, LXXVI, 5 (May 1979): 256–82.

³⁰ Thus, contractarian constructivism also avoids the tension that exists in Rawls's theory between the appeal to reflective equilibrium and the appeal to the outcome of a hypothetical agreement. For a discussion of this tension see David Lyons, "The Nature and Soundness of the Contract and Coherence Arguments," in Daniels, ed., pp. 141–67.

constructivist's use of paradigmatic moral principles to fix the reference of 'moral wrongness' should not be construed as an appeal to the method of reflective equilibrium in order to determine which moral principles to accept as true. It must be acknowledged that, if the moral principles made true by the contractor's choices conflict with our moral paradigms, then there is reason to revise the characterization of the contractors and their circumstances. The moral paradigms themselves, however, are not similarly subject to revision. That is because the truth of these moral principles must be assumed in order to ensure that the theory is focused on the right subject matter (moral wrongness, for example). In this respect, I have acknowledged, metaethical theory cannot remain normatively neutral. A theory of this sort must, nevertheless, strive to be as normatively neutral as possible. This requires that the substantive constraints provided by moral paradigms be kept to a minimum and that controversial moral questions not be begged. Thus, one will want to ensure that torturing another human being merely for the sake of the torturer's amusement is wrong. But one will not want to ensure that torturing an infant is wrong when necessary to prevent the agonizing deaths of a million people. That would be prejudicial toward consequentialism.

Unlike a normative contractarian theory, contractarian constructivism does not need to take sides on the controversial issues that separate consequentialists from nonconsequentialists and those who prefer a rights- (or duty-) centered ethics from proponents of a virtue-centered ethics. In order to develop such a normative contractarian theory, a much fuller description of the contractors will be necessary. The normative contractarian will need to embrace a particular conception of practical rationality, choosing, for example, between an instrumentalist conception and one that recognizes certain ends as ends that everyone has reason to promote regardless of her particular desires and preferences (or perhaps between these and some third alternative). One will also need to decide whether there is only one conception of the good life that must be accepted by all rational persons, or whether, as Rawls suggests, there is a plurality of equally rational conceptions of the good. Should the contractors be conceived of as purely self-regarding or as having at least some direct concern for others (say, a Kantian respect for persons) or a concern for their common good? All of these issues will have to be settled before one can use the contractarian device to justify a particular normative ethical theory (or a full range of moral principles). A normative contractarian will have to provide independent

arguments in defense of all of these normative stands (something which critics charge has not been done).

Fortunately, the contractarian constructivist need not worry about all of this. A thin characterization of the contractors that remains neutral on these issues seems all that is required to ensure the selection of social norms that make the noncontroversial paradigmatic moral principles true. The contractarian constructivist need only constrain the contractors in such a way (for example, by a veil of ignorance) as to guarantee the truth of our moral paradigms—and this only to ensure that the theory is focused on the right subject matter, not to provide a proof of the truth or justifiability of these principles.

CONCLUDING REMARKS

Contractarian constructivism proposes a conception of the nature of moral truths that has some important advantages. Insofar as it conceives of them as truths about what sort of social order hypothetical contractors would have reason to choose for regulating their interactions with one another, it suggests a plausible explication of the traditional conception of morality (endorsed by virtually all moral philosophers) as consisting in a set of impartial constraints that constitute mutually acceptable terms for social interaction. It also provides a basis for arguing that there are objective moral truths without committing one to dubious metaphysical assumptions. It does not require one to postulate the existence of a stance-independent moral reality, no matter how naturalized and purged of queer entities. Nor does it require a false assimilation of moral truths to scientific truths which deprives them of their essentially practical character. Because contractarian constructivism makes the truth of moral principles depend directly on the rational preferability of certain social norms or standards, it draws a much closer connection between the truth of moral principles and their acceptability as action guides (at least from a social point of view) than do other forms of moral objectivism. Thus, contractarian constructivism provides a plausible account of what moral thought and talk is really about that captures the essentially action-guiding function of moral principles without depriving them of their aspirations to substantive truth or the dignity of a cognitive status. These are, it seems to me, important virtues in a metaethical theory.

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