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ETHICAL INVESTIGATIONS

ON THE POSSIBILITY OF A PHILOSOPHICAL ETHICS.
ON THE PRINCIPLE OF WELFARE.
THE LAW OF RELATIVITY IN ETHICS.

[Etiske Undersøgelser]

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PREFACE.

Of the three treatises that make up this work, I myself lay the greatest weight on the third, in which I have sought to carry through an idea suggested in my Ethics (somewhat more in the German than in the Danish edition), which might be of some significance for ethical thought. This treatise has already been printed in the first number of the "International Journal of Ethics" (Autumn 1890). — In the two first treatises I have taken up for renewed treatment some questions that concern the first principles of ethics. They may be regarded either as an introduction to or as a supplement to my Ethics (especially ch. I, III and VII). The second treatise (On the Principle of Welfare) is being printed at about the same time in the American journal "The Monist" as part of a longer article. —

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CONTENTS.

Page

On the Possibility of a Philosophical Ethics 1
On the Principle of Welfare **24**
The Law of Relativity in Ethics **42**

On the Possibility of a Philosophical Ethics.

1. To preach morality is easy, to ground morality is difficult, a philosopher has said. This *[1]* proposition is correct, if by preaching morality one understands merely the voicing of the ideas of good and evil current in the given society. But if by preaching morality one understands addressing the individuals one by one in such a way that their character thereby receives motives and incentives to develop not merely in the spirit of the current ethical ideas, but in the spirit of true and valid ideals, then it is not only the most difficult and the highest art of all, but it will also necessarily lead over to what that philosopher recognized as a great difficulty, namely to give a grounding of ethical judgments.

Ethical judgments, judgments of good and evil, arise at first as involuntary outbursts of feeling. They express the value that is attributed to human actions or institutions. In every society there is a certain sum total of ethical judgments whose validity is recognized. They lie in the air, in that the individual appropriates and applies these judgments as immediately given and justified, just as he inherits the instincts and traditions of the race in general. This sum total of ethical judgments expresses what has been called *positive morality*. This has, like positive religion and positive legislation, a historical *[2]* character. It has developed and continues to develop constantly in reciprocal action with the fate and circumstances of life of the race or society. Its content is a circle of models, rules of life and commands, which for long ages pass from generation to generation as "unwritten laws" and often stand before the individual with a mysterious authority. The individual submits to them all the more as they are proclaimed and maintained by authorities, personalities, whose physical or mental power awakens his fear, his reverence, his trust or his love, and in the face of which no urge to criticism is felt, or at any rate no criticism easily gets a hearing. Such authorities are parents, teachers, priests, princes, lawgivers, founders of religions. — Positive morality might be conceived as presented in its connection. We should then get a presentation of the ethical judgments valid among a certain people and at a certain time. Theological ethics and the positive

science of law would be parts of such a positive[*)] ethics (so one might perhaps call the scientific presentation of positive morality), in that theological ethics concerns only the ethical judgments that can be derived from a certain religious faith, and the positive science of law embraces only the rules and commands that are expressly formulated in
[3] the juridical laws of the land. Positive ethics would also contain the rules and commands which public opinion, custom, usage, tradition and instruction inculcate.

But when the fear of, or the trust in, the historically given authorities wanes, or when for other causes the urge to a more penetrating ethical knowledge awakens, one cannot remain with positive morality. A question arises about the very justification of the authorities, about the first principles that condition the validity of all ethical judgments. Do ethical judgments have no validity, except insofar as they are maintained by authorities? That is the great question by whose posing *philosophical ethics* comes into being. Its task must be to show that, without presupposing the absolute validity of the authorities, one can find a basis for ethical judgments in human nature. Just as the philosophical theory of knowledge concerns the first principles of the theoretical conception of the world, which is grounded in human nature, so philosophical ethics concerns the first principles of the *valuation* of human actions, which is grounded in human nature itself.

2. The relation between philosophical ethics and positive morality need not be hostile. Human nature, in which philosophy seeks a basis for ethical judgments, also reveals itself in history and gains a determining influence on the development of positive morality. The ideals and commands that make up the latter's content have not arisen except by virtue of human nature, as it acted under the given conditions. Even in the strictest faith in authority, human nature therefore shows itself. No authority can be purely external: authority is authority only through the feeling it is able to awaken. Faith in authority
[4] therefore always hangs together with the whole life of feeling of men and through this again with the experiences that men have in their struggle for existence. By thus going back to the connection of positive morality with human nature, one sees its kinship with philosophical ethics. In part philosophical ethics has only the significance *of bringing the connection of our ethical judgments with our nature and our conditions of life to full consciousness*, as indeed philosophy generally can be said to be the self-knowledge of the human mind in theoretical and practical respect.

[*)] The word "positive" denotes, in this whole context (positive morality, positive religion, positive legislation, positive ethics), not the opposite of "negative". Nor is it used in the sense in which Auguste Comte takes it, when he calls his philosophy "la philosophie positive" or Positivism. In Comte "positif" is the same as factual, really given in nature. Here, on the other hand, the word "positive" denotes what is set in a definite *historical* form, as an expressly established determination or *tradition*.

But besides this relation between philosophical ethics and positive morality, which comes about because the latter does not have the same urge as the former to go back to the first basis, three different relations may still obtain between them.

Starting from the clearer idea of the first principles, philosophical ethics may be led to demand that work be *carried further* essentially in the same spirit as within positive morality, but from more comprehensive points of view. Thus the feeling of humanity of more recent times carries on the work on the basis of the principle of love of mankind, which Christian ethics in particular maintained, which Greek ethics made valid within the limits set by national feeling, and which was already at work in the ancient Indian ethics of the family, in the feeling that embraced all who gathered around the same hearth. What is at issue here is merely the *extension* of the principle beyond the limits of the confession, the nation and the family[*)].

While what is at issue here is extension and carrying through, it may in other cases be necessary to introduce an entirely different motivation and grounding, in order that recognition and continued application of the historically given may become possible. *[5]* The historically given in manner of acting or in the ordering of social relations is then recognized and made use of not from the motive that originally called it forth, but from an entirely different motive. In other words, there takes place a displacement of motives. — From the sanctity of the hearth there developed among the ancient Indians the right of asylum, which became of special importance at the hearths in the temple and in the king's court[*)]; this right of asylum became in turn a form under which peace could be established and pardon exercised; and from this there sprang partly the state power's maintenance of law and order, partly also the more humane treatment of criminals and in general of those who are in conflict with existing society. — Another example is private property, which has developed historically under the influence of gainful activity, delight in activity and feeling of power, but which society recognized and regulated in detail for the sake of peace and order, and which is now recognized in ethical systems and systems of political economy only insofar as it promotes the individual's self-activity in the service of society[**)]. — The displacement of motives has an illuminating parallel in the way in which one and the same organ in different species of living beings can perform different functions, because it is adapted to different conditions. The forelimbs are thus instruments of grasping and of feeling in man, instruments of walking in the

[*)]Cf. my "Etik". Copenhagen 1887. p. 326—331.

[*)]Cf. *Leist*: Alt-arischen Jus gentium. Leipzig 1889. p. 20 f. 87. — F. *Pollock*: The King's Peace (Oxford Lectures. London 1890). p. 70. 77.

[**)]Cf. my "Etik". p. 264—266.

horse, instruments of flight in the bird, an instrument of swimming in the whale. One and the same basic form appears transformed in different ways under the different
[6] circumstances of life. Conversely, different organs may come to perform the same function, when living beings of different species have in part the same conditions of life. Thus it is highly different parts of the organism that function as organs of respiration in mammals, fishes, crustaceans and insects; the wings of birds and insects are due to the development of entirely different parts of the body[*]. The displacement of motives in the psychological-ethical domain corresponds to this transformation and adaptation in the biological domain. In the biological domain too it is, in a certain sense, the motive that changes, in that the same organs come to serve different ends or different organs to serve the same end. In ethics, actions and institutions can thus acquire a different significance and therefore a differently motivated recognition than before. Just as little as one dares to infer from the "adaptive" (arisen by adaptation) similarity between butterflies and true birds a real kinship between them, just as little can one infer from the present ethical significance of an action or an institution to its historical origin and development. And just so conversely: from the historical origin one cannot without more infer to the value. — The phenomenon of the displacement of motives is therefore well suited to illuminate the relation between the historical and the philosophical treatment of ethics[**].

Finally, however, the relation may also be that the principles and commands of positive morality must be rejected entirely, and new principles set up in their place. The
[7] content is then negative, not grounding, continuing or transforming. Such an attitude is taken by philosophical ethics to asceticism (insofar as this declares feeling of pleasure in and for itself evil and wants to be more than practice in necessary self-control), to intolerance, to slavery and to other barbaric institutions. —

3. We now return to the question whether there is in human nature a firm basis for ethical valuation, independent of the influence of the historically given authorities. On the answer to this question depends the possibility of a philosophical ethics.

All science has in the end its basis in human nature. Thus logic presupposes the faculty of thought (the faculty of comparison, the faculty of finding likeness and difference); geometry presupposes in addition the faculty of spatial intuition; physics and chemistry presuppose in addition the various external senses (touch, sight, hearing, taste, smell), etc. What now does ethics presuppose for its part?

[*] Cf. *Gervais*: Élements de zoologie. Paris 1871. p. 49 f. 54 ff. *Darwin*: Om Arternes Oprindelse. p. 507. 519. *Körner*: Die logischen Grundlagen der Klassifikation der Organismen. (Wundt's Philosophische Studien. II.). p. 242.

[**] See on this my "Etik" p. 8—10.

In ethical judgments there is an element at work that plays no role in purely logical or natural-scientific judgments. What is at issue in them is more than establishing identity and difference or demonstrating a connection between phenomena. The nature of an action or an institution can call forth an ethical judgment, a judgment of good and evil, only when the action or institution in question awakens in us a feeling of pleasure or displeasure. If we were merely intuiting, sensing and comparing beings, without the capacity to feel pleasure and displeasure, such judgments would not arise. Every judgment arises through analysis of a given total conception[*)]. The peculiarity of ethical judgments is that they analyze, and express in conscious form, the feeling that the sight of, or the idea of, an action awakens in us. The capacity to apprehend the action and to *[8]* make its character distinct to oneself (by comparison) is presupposed; but to this there is added the element of feeling that it awakens, as a third factor alongside knowledge of the actual circumstances and the capacity to think about the action. Experience indeed also proves that ethical discussions can be brought to a halt in three ways, namely not only when one of the parties is convinced of a self-contradiction or of a factual error,[*)] but also when it is entirely different kinds of feeling that determine the ethical judgments of the contending parties. The ethical disagreements that concern only consequences or factual circumstances are not of a decisive nature. It is otherwise where it is a different feeling that determines the valuation, — where the *motive of valuation* is thus different.

If now feelings varied without limit, — if there were not certain typical forms of feeling, which assert themselves with a certain firmness in the individuals each by himself and in the same way in several different individuals, then no philosophical ethics would be possible. But it is not so. We find in every normal individual a feeling that is the dominant one in him, at least during a certain period, so that it constitutes the center of gravity of his nature and will determine his evaluative judgments. It is the most important constituent of his "real self"[**)]. And in every individual there will also — by means of memory and comparison, indeed already by the mere instinct of self-preservation — assert itself a connection between the single moments and the single *[9]* periods of life. In this the "formal self" manifests itself[*)]. There will therefore manifest itself a stronger or weaker tendency to evaluate actions not merely by their influence on the single moment or the single period, but by their influence on life as a whole. And in the different individuals there manifest themselves not merely feelings that are

[*)] See my "Formel Logik". 2nd ed. p. 13.
[*)] See "Formel Logik". p. 24 f.
[**)] See my "Psykologi". ch. V, 5; VI E, 2; VII B, 1 c.
[*)] "Psykologi". ch. V, 5 (cf. IV, 7 e).

attached to their existence each for itself alone, but also such as are determined by the common conditions of life, and which immediately link the one individual to one or more others. The maternal instinct and the feelings springing from it are immediate natural promptings in this direction. Within the family, the tribe and the nation, and within the various associations and fellowships, more or less kindred feelings develop under the influence of common work and common fate. The intensity and extent of such feelings stand as a rule in inverse proportion to each other; they stir most strongly and powerfully in the narrowest circles, especially in the family and the neighborhood. But history shows that they have been able to develop so as to embrace the whole of mankind. The idea of a mankind and of universal love of mankind (caritas generis humani) developed already among the Greeks and Romans of antiquity in the last centuries before the birth of Christ, probably as a consequence of the way in which the national barriers were broken down by the conquests of Alexander the Great and of the Romans, so that the feeling of kinship and community became possible.

The ethical judgments must now be determined by one of the feelings here mentioned (besides being determined, as already stated, by the consistency of thought and knowledge of the actual circumstances). But therein lies that *there is a possibility of as many*
[10] *ethical systems as there are different dominant feelings that can determine the judgments.* The different ethical systems differ from one another by the motive of valuation. The history of ethics shows us that the different possibilities have to a great extent been made use of. Even a pure ethics of the moment, which lets regard for the single moment, abstracted from all other moments, be sole ruler, has been tried (by Aristippus of Cyrene). One has often taken as the point of departure the self-preservation, enjoyment of life and feeling of power of the single, isolated individual. Thereby one is led to a system in which regard for other individuals acquires value only as an often indispensable means for attaining goods for the individual himself. Ethics thus becomes a doctrine of the necessary detours the individual must take to attain his happiness. Where basis and motive of valuation are taken from sympathy, different systems may again become possible, according to the extent sympathy has. An ethics of the family is approximately realized in the ancient Indian ethics. A national ethics was developed by Plato and Aristotle. An ethics of estates or of associations appears approximately in history, also in our days, in the mutual conflicts of the different classes of society. But an ethics of humanity too works its way forward through history; the valuation of actions and institutions then takes their influence on all human beings into consideration.

Psychologically and historically viewed there is a continuous connection between all

these different standpoints, which in theory and practice appear carried through with more or less consistency and with greater or lesser expertise. The connection rests on the fact that the one motive of valuation can, by virtue of psychological laws and under the influence of the experiences of life, be replaced by the other. With such a change the system of ethical judgments also changes; but this change is effect, not cause. It is *[11]* the arising of new feelings that matters, and they arise through practical experiences, not through theoretical reasonings. A practical education now takes place constantly, not only within the family, but also within social life as a whole. The individual learns to subordinate regard for the single moment to regard for the whole of life, and regard for his self-preservation and enjoyment to regard for what the common, general good requires. An attachment to other individuals, initiated by egoistic motives, can under continued life together and its experiences become an independent object of feeling of pleasure; what was at first grasped as means can become end. In this kind of displacement of motives consists to a great extent the education of mankind through history. But it would hardly go far, if it were not supported by immediate sympathetic instincts[*)].

Ethically viewed, on the other hand, there is discontinuity between the different standpoints and systems, since it is not possible for the one to refute the other by way of logical proof or by means of objective facts. The greater the consistency the single system possesses, the more unassailable it will be. The resolute and consistent egoist, who makes himself the sole end and regards other individuals merely as means for himself, cannot be refuted from the standpoint of the ethics of the family, the ethics of the nation or the ethics of humanity. He says with Shakespeare's Richard III: I am myself alone! Naturally it is only insofar as the system is consistent that it is unassailable; if family feeling, national feeling or love of mankind stirs in the egoist, he will be able to *[12]* come into contradiction with himself and be easily refuted. Otherwise he can be brought to give up his standpoint only by a feeling being awakened in him that he has hitherto not known. But this happens by "moral preaching" (in the highest sense), not by mere "moral grounding". It is ethical art, not ethical science, that then goes into action.

There are in every society individuals who do not stand on the basis that is necessary in order that social life at the given stage may subsist. Such individuals are children, the insane and criminals. One may say that they have other ethical systems than the one society as such holds. Toward them other means are applied than mere reasoning. They become the object of a practical mode of treatment, a discipline and education that is to awaken in them the feelings they have hitherto lacked. Society arrogates to itself, *by*

[*)] Cf. "Psykologi", VI C, 2—7.

virtue of its own ethics, the right to treat them in this way, but cannot always ground this right on the ethics of such individuals themselves. — In every ethical judgment we utter there is really such a pedagogical moment. The ethical judgment springs not merely from feeling; it also speaks to feeling. Him whose action we evaluate, we praise or blame; we thereby set his feeling in motion, make ourselves an authority over him and bear responsibility for the effect of the motives we can in this way call forth.

4. Meanwhile it must be well noted that the different systems are not purely co-ordinate with one another. The single system can give the other systems a certain subordinate significance within itself. The system of the egoist, e.g., does not exclude regard for family and state, but regards them merely from the point of view of means. The ethics of the nation and of humanity must from their standpoints show how the
[13] single individual within their systems comes to his full right, though in another way than according to the egoistic system. Through sympathy, through devotion to a larger whole and work in its service the individual's powers and abilities are developed; his personality is widened and strengthened precisely through self-forgetfulness. To forget oneself is not the same as to lose oneself. It is to set oneself other ends than one's own ego. Through the increased and heightened striving that these more far-reaching ends condition, the mind gets greater life, strength and flight. It is thus an enrichment, a gain for the individual, if sympathy gains power in him. But this can be experienced only when sympathy *has superseded* egoism, and thus cannot be ground or motive for this supersession. Therefore sympathy would not have developed in the human race, if nature had not here, just as in self-preservation, laid hold on us through instincts and involuntary experiences. We should otherwise stand to all eternity like the man who would not go into the water until he could swim.

One might perhaps think that things went here as in a physical or chemical experiment, by which something is established by way of experience (a posteriori) that could not be established by way of mere thinking (a priori), and that ethics was thus here not placed otherwise than any science that takes its presuppositions from experience. But one would then overlook a very essential difference. The experiment in question is to take place with the individual himself, and precisely with that in him that conditions his ethical judgment. When the individual has experienced how sympathy widens his ego, makes it healthier, stronger and opens to it new sources of satisfaction, then he has himself become another than he was before; he has acquired another real self. He draws
[14] up the account from another basis than that on which he stood before he undertook the experiment, — and the reckoning is determined throughout by the new basis, the new

motive of valuation. He thus does not change his view by inference from the experiment, but the latter immediately changes his feeling and as a consequence his view.

Moreover the transition from the one basis to the other does not take place with the same ease as that with which an experiment is performed. History and daily experience show this sufficiently. The education of mankind takes a long time. For some individuals the possibility has even been denied that the minimum of sympathy that present civil society requires can be awakened; in another connection we shall discuss this denial more closely. Experience shows in any case, that there are individuals who, in consequence of the basis on which they now once stand, collide with the given conditions and perish. Tragedy draws some of its greatest subjects from the clash of ethical systems; within one and the same system tragic clash is not so easily possible. — And even where the transition from one basis to another succeeds, it as a rule takes time and takes place often through severe crises.

It would therefore be a very inexpedient use of words, if one were to call a feeling egoistic, because it is after all in sympathy too our *own* pleasure or displeasure that we have, and because sympathy could not subsist, if it did not bring with it a fuller and more inward life and thereby a greater satisfaction and self-assertion than would be attained, if feeling of pleasure and displeasure were determined only by a self-preservation and self-assertion for which everything else in the world were mere means. Such a use of words would mislead one into overlooking some of the most significant and most deeply penetrating oppositions in the domain of the life of the mind.

[15] 5. It rests on a choice what standpoint is taken in a presentation of ethics. It would be of great interest to have the various possible systems each by itself fully worked out, so that we could see how ethics shapes itself in detail at a standpoint of the moment, an egoistic standpoint, a family standpoint, etc. It would throw light on the nature of the motives of valuation. The interest of historical or comparative ethics rests on this; for historically we find approximations to the various possible systems. But also only approximations. For in real life the motives of valuation (just as well as the motives of action) are always more or less composite. Our conscience (that is to say, the feeling that actually determines our valuation) hardly ever coincides completely with sympathy or egoism or with a single one of their forms. Feelings of highly different kinds work together in it. When ethics, in order to reach full clarity and consistency, picks out a single definite feeling and holds to it as basis, in that it conceives it in full purity and strength and with greatest extent, it performs a similar abstraction and idealization as every formal science performs in its first step. The pure space which geometry presupposes in

its first definitions and axioms does not occur in reality as an object of sensation and intuition.

Now when ethics chooses as basis an ideal conscience, which in its valuation is determined by universal sympathy, it has indeed performed an abstraction, but this consists in its conceiving in ideal perfection a force that actually exists in the world, has worked its way forward and probably will continue to work its way forward. It has thus in spite of its ideality firm ground under its feet. It proposes to us to regard the human
[16] world and what goes on there from this vantage-point and see what ideals and tasks follow from it. Others may then regard the world from their vantage-point. When we then each for himself proceed with as great consistency as possible and rely on as many and as certain experiences as possible, our knowledge will have made the progress it is able to make in this domain. The possibility of grounding ethics leads us to the necessity of recognizing a limitation of its scientific character. Grounding and limitation belong closely together in all domains. —

When sympathy is chosen as motive of valuation, it lies therein that only the ends which an enlightened, consistent and universal sympathy acknowledges can be the highest ethical ends. But it does not lie therein that sympathy necessarily ought to be motive of action in all cases and in all individuals. There may lie in human nature other motives, which need not lead to conflict with the ends sympathy sets, but may precisely work for their benefit; and these motives may even be indispensable. Urge to self-preservation and self-assertion, ambition, adherence to custom and usage or to venerable authorities — these are examples of forces and tendencies in human nature which an ethics that rests on sympathy as ultimate motive of valuation can fully acknowledge, insofar as they act in the direction of the ends it has set. The difference between such motives and universal sympathy is that, whereas the latter *necessarily* comes into contradiction with itself by not regarding actions and institutions from the standpoint of the whole (of society, ultimately of mankind), the other motives do not necessarily come into contradiction with themselves by a more limited range of vision. For the egoist it is indifferent how it goes with the others (whether they too are egoists or not), when
[17] they only promote *his* ends. And even if, as some have thought they could prove, there should be a harmony among all egoists' well-understood interests, then the single egoist rejoices over this only insofar as this harmony of ends benefits *him*. If the idea of such a real or possible harmony of interests aroused in him a joy or perhaps even enthusiasm, which goes beyond the joy that is felt over a means that has worth only as means, then he would no longer be an egoist; he would then have reached the point of having other

ends besides himself.

The ethics grounded on sympathy as motive of valuation leads each individual to regard himself not merely as end, but also as means, and to regard others not merely as means, but also as ends. From no other basis can this way of regarding be grounded. Its general basic thought can be expressed thus:

Look at your life and at the lives of the others not merely from your own vantage-point, as if it were the center of the world, but from a higher vantage-point: that of society, of the race! Because you reach the goal you have set yourself, it is not said that all others too have reached their goal. Because you have had your wishes fulfilled, there is suffering enough still left in the world, justified but unfulfilled wishes in sufficient quantity. Were you even the greatest that has lived, you are yet only one among many of the race whose history is not concluded with your history!

6. An essential objection to the attempt to build ethics on sympathy as motive of valuation might seem to lie in the struggle for existence as the guiding point of view for all life, human life too. When life is an uninterrupted struggle to subsist between different species and between different individuals of the same species, does it not then hold for each individual to get ahead of the others and to procure for himself as great *[18]* advantage as possible at their expense, and must not an ethics grounded on sympathy then lack all root in real life? There seems indeed then to hold no other opposition than that which exists between those who can subsist and develop, and those who cannot, — between the sound, strong and happy on the one side, the sick, weak and suffering on the other side. And is there here not an absolute, a hopeless opposition, which cannot be shaken without general enfeeblement and paralysis becoming the consequence?

While some interpret the Darwinian doctrine of the struggle for existence in this way and with aesthetic complacency revel in the thought of the ruthlessness and strength which the struggle for existence leads to unfolding, there are others who indeed concede that such ethical consequences lie in that doctrine, but who find therein one of the most essential objections against it. — As for Darwin himself, he conceded none of these consequences. As a moral philosopher he joined the ethical school founded by Shaftesbury and Hutcheson and carried further in our days by Herbert Spencer, which saw in sympathy the basis of ethics, a conception which in this treatise it has been attempted to give a more definite illumination and carrying through. I shall now try briefly to show that the great naturalist had a more correct conception of his doctrine than that which appears in those who draw those supposed consequences.

7. The struggle for existence brings to unfolding all possibilities that are of help

under the given conditions. There can thus develop a ruthless urge to self-preservation, which can rise to different degrees of conscious egoism. There lies a possibility and a
[19] tendency in the human nature in this direction. But it is not the only possibility that lies in human nature, nor the only possibility that can unfold under the struggle for existence. This struggle is not in the literal sense a "war of all against all", as Thomas Hobbes in his time assumed. The existence at stake in the struggle is not merely the single individual's, but the species', the race's. And the species is maintained not always and not merely by single individuals each by himself as ruthlessly as possible seeking to hold themselves up, but often also, yes: only, by their striving and fighting in common, or by the one individual sacrificing himself for the other. The struggle for existence thus produces not merely egoism, but also means of getting beyond egoism. Its effects are not all unambiguous, not all of the same value in ethical respect. An ethics is precisely necessary because a choice must be made between these effects, as soon as the question is which of them we with our conscious willing and intervention shall favor, and which we shall seek to check or displace. As willing beings we are not merely effects of the preceding development, but also (in part at least) causes of the following development, and our ethical deliberations concern the direction in which our causality ought to go. To decide this, we need a standard, an ideal, and the first task of ethics is to establish the basis from which such a standard can be found. Philosophical ethics seeks, as we have seen, this basis in human nature. The struggle for existence cannot, as certainly as it is the condition of all life, be stopped; but it may perhaps be conducted in a way that accords with the given motive of valuation.

By looking at the first conditions of the preservation of the race we shall find a
[20] possibility for this. — Goethe said, when he saw a sculpture representing a cow with a suckling calf: "Here we have a subject of the highest kind: the world-sustaining nourishing principle running through the whole of nature meets us here in a beautiful simile". The Darwinian doctrine is a closer elaboration of this thought. It has shown that without instincts, which lead to care and self-sacrifice for the offspring, a species cannot subsist in the struggle for existence. However many riddles still remain, as regards the first germs of the most wonderful instinct in nature, the maternal instinct or the parental instinct, its necessity is evident. It shows itself especially where it stands in the most glaring opposition to a being's other instincts. Spiders, e.g., are beasts of prey, which seek their prey each by himself by means of their webs, without there, as in so many other beasts of prey, being able to develop a certain social feeling during the hunting-fellowship. They attack and devour on the contrary other individuals of their

own species, even when there is no lack of other prey. Not even in the mating season are male and female safe from each other's predatory appetite. The offspring would therefore at once perish, if not even in these otherwise so "egoistic" animals the maternal instinct appeared even in unusually high degree[*]. — The instincts and feelings that bind parents and children to each other are thus decidedly favored by the struggle for existence. Only in rarer cases are the opposite instincts object of natural selection. Thus the instinct that makes the worker bees kill their brothers, the drones, and the queen bee kill the bee-princesses[*], can be explained only by its significance in the struggle *[21]* for existence, which thus under some circumstances favors maternal love and love of siblings, under other circumstances the opposite; yet this last is the rarest case. Where within one and the same species single individuals in greater or lesser degree lack the parental instinct,[**] such exceptions must be explained in the same way, insofar as they are not remnants from earlier stages of development, which maintain themselves in single cases by atavism.

This way of regarding finds application also to the significance of solidarity and community for the single individuals in the maintenance and conduct of their lives. Not as a consequence of conscious calculation and arbitrary choice, but in consequence of the nature of the circumstances, comes the single individual to carry on the struggle for existence together with others. He practices solidarity and cooperation before he can form any idea of their significance. There forms hereby within one and the same group of human beings a feeling of brotherhood and humanity, which perhaps at first only shows itself in war and danger, but later can express itself also under other circumstances.

Under the common life thus involuntarily instituted and practiced, under community in fate and work, in pleasure and pain, the individual learns practically to apply a higher standard than that which can be fetched from his own purely individual interests. Through life together and joint activity the fellow-feeling develops, — irrespective of what *[22]* motives have originally led to the life together and the joint activity, for a displacement of motives often takes place here.

In my "Etik" I have shown how this practical development of the feeling of community plays a role within marriage (p. 180), in the organization of the working class (p. 244), in the development of religious freedom (p. 312) and in national feeling (p. 338 f.). I have traced it back to "the Aristotelian principle" (p. 162 f.), that involuntary practice

[*] See *Fr. Dahl*: Versuch einer Darstellung der psychischen Vorgänge in den Spinnen. (Vierterljahrsschrift für wissenschaftliche Philosophie. IX). p. 180 ff.

[*] *Darwin*: Menneskets Afstamning. I. p. 75. — Arternes Oprindelse. p. 259.

[**] See on this *Lombroso*: Der Verbrecher. Deutsche Uebers. p. 9. 27. — Dictionnaire des sciences anthropologiques. Article "Famille".

of qualities and skills precedes conscious possession and exercise. Qualities form, — that was Aristotle's doctrine, confirmed by more recent biology and psychology, — by working and acting, and where a quality or a skill has formed, a feeling of pleasure is connected with the exercise of the corresponding actions. The first condition is that the circumstances of life give occasion for practice.

8. One more main point is to be emphasized to illuminate the relation of ethics to the struggle for existence. This concerns not merely the pure, bare existence, the mere physical subsistence. The existence that is fought for is that which is led at a definite stage of life. Not without resistance, not without several possibilities first being tried, does life go back to a lower, more elementary stage. Every stage of life has its needs, in which its essence reveals itself. Only at the very simplest stages of life is the feeling of pleasure and displeasure attached solely to what immediately serves to maintain life. When these most elementary needs are satisfied, there will at higher stages stir an urge to use the powers and a pleasure in this use, even if it does not lead to any practical result. The feeling of pleasure in play and the development of the aesthetic feeling are
[23] examples of this. The joy in knowledge of truth is also an example of this displacement of motives, by which the feeling of pleasure is attached to the activity itself and not merely to its result. A higher stage has been reached, where the elementary demands of life recede in such a way that ideal interests, independent of the physical demand of self-preservation, become possible. And when such a stage has been reached, the struggle for existence concerns the preservation of this stage of life: life is that which is led at this stage; everything else is death. With right one therefore speaks of a mental death, where ideal interests are extinguished. To such ideal interests belong now also sympathy and conscience, when they have worked their way forward. A life that is won only by denying them would now stand as worthless[*)].

[*)] Cf. "Om Grundlaget for den humane Etik". (Copenhagen 1876), p. 30 f., where I have already put forward this thought.

On the Principle of Welfare.

1. When the principle of welfare is recognized as the *standard* in the valuation of actions *[24]* and institutions, this means that they are called good or evil according as in their effects (as far as we can trace them) they bring about a predominance of feelings of pleasure or a predominance of feelings of displeasure in a larger or smaller circle of conscious beings. Every action can be compared to a stone thrown into the water; the movement propagates itself in larger or smaller circles, and the valuation depends on how it works there, where it intervenes in the weal and woe of living beings. Just as theoretical science explains the single natural phenomenon by its connection with other natural phenomena, so ethics evaluates the one feeling by its relation to other feelings: the satisfaction the agent himself feels in his acting can be approved only if the effects of the action do not intervene disturbingly in the feeling of pleasure of other beings, when such an intervention cannot be shown to be a necessary means to a so much the greater feeling of pleasure, — and the best actions are those that increase the feeling of pleasure in the world and diminish the feeling of displeasure. — As a *standard*, this principle corresponds immediately to sympathy as *motive of valuation*. How far it is possible to recognize it from standpoints that lay other motives of valuation at the basis, shall not *[25]* be discussed further here[*)].

The valuation does not stop at the external action, but goes back to the motives of the agent, to his traits of character, to the whole inner life from which the action has sprung. This has its ground in the nature and origin of valuation. Ethical judgments are originally involuntary outbursts of feeling. And these outbursts of feeling are of great practical importance, in that they act as determinants on the will (one's own and that of others) and produce motives for future actions. It is therefore necessary to go back to the point where it is possible to influence the force that has produced the action, and this point lies in the inner life, in the disposition of the agent, in the motives that have brought about the action. Only when they are changed are the future actions also changed, and

[*)] On this see "Etik" p. 39—42.

with these in turn their effects. It is the tendency of effects that is consistently traced back to its source.

A force we know only from its effects. Only by inference can we form an idea of what goes on in the mind of a human being, of the motives and faculties he commands. A goodness or greatness that never at any time showed itself in action could not become the object of ethical recognition. It would rest on self-deception. There must at least take place an inner work, a yearning and striving in the direction the ethical principle demands. Often the individual in his valuation of himself must take refuge in this inner work, and the true ethical valuation must in the end concern that[**)]; but it is
[26] indeed precisely the beginning, the first attempts at that which the principle of welfare demands, only that the continuation is often made impossible on account of individual circumstances.

But just as important is it to maintain that the effect of the action need not show itself at once. When great and good men are so often misjudged by their own contemporaries, this is explained by the fact that only a very comprehensive view can measure the significance of their conduct. Their greatness and goodness rest precisely on this, that their thought, feeling and will embrace far more than their short-sighted and narrowly feeling contemporaries are able to discover. A long time may pass before general understanding and appropriation become possible. Therefore it by no means lies in the principle of welfare that one should in one's conduct adjust oneself wholly to the want and the needs that men have at the moment. The principle of welfare demands precisely that we not shrink from the struggle against prejudice and inertia. The best one can do for others is often simply to let them feel that in their wishes and needs they still stand too low and do not make sufficiently great demands. Thus — to take an example — the great artist often goes his lonely way, not understood or even misunderstood by the great multitude. And yet he follows the principle of welfare, without perhaps thinking of it, by rigorously upholding the demands of art. He increases the mental capital of the race and bestows on it a force which in the future may come to act in large circles. Only a short-sighted conception and application keeps to the want prevailing at the moment instead of looking to the permanent conditions of life of the race and to the steady sources of new life and new activity[*)].

2. The principle of welfare furnishes a *rule* we can lay at the basis of our valuation of
[27] actions. But it by no means demands, as has sometimes been supposed, that regard for welfare shall also be the *motive* for every action. We resort to general principles only in

[**)] On this see the following treatise on the law of relativity in ethics.

[*)] This last argument is cited here from my "Etik" p. 94.

order to orient ourselves in such cases where the immediate appraisal or the instinctive feeling cannot bring the matter to a decision, that is, in cases of doubt, or else when we strive for a systematic treatment of ethical questions. The ethical feeling can work quite involuntarily and without actual reasoning, in that we are immediately captivated by the action as it stands before us (before thought, that is as possible, or in experience, that is as real), just as in our aesthetic feeling we can immediately be gripped by the beauty of a work of art or of a landscape, without needing to resort to aesthetic reasonings. Or one follows with confidence the "unwritten laws" contained in custom and usage, in tradition, in sum in positive morality. Precisely by virtue of the principle of welfare such an immediacy is to be recommended and maintained, as long as it does not lead to overlooking real problems and tasks. It is the state of innocence, from which no one ought to be torn without necessity. When the immediate security is broken, the abstract principles become necessary aids; but they can often be applied to the single, concrete cases only through many intermediate links, and they do not so easily gain a practical influence on the will.

Even quite other motives than ethical feeling or devotion to the demands of positive morality can the principle of welfare approve, wish or require. It is thus most fortunate if a man takes care of his wife and his children because he loves them, and not because his ethical feeling requires it. Where duty has consciously to come into force in the most intimate relations between human beings, it is as a rule a sign that a less fortunate relation is present. Perfect love drives out not only fear, but also duty. Like the family *[28]* relation, the relation of the artist and the researcher to their field is also an example of this[*)].

Wundt[**)] has put forward the following objection to the principle of welfare: "It is conceivable that one person sacrifices himself for another; it is conceivable that one surrenders property and life for some ideal end, for the fatherland, freedom, faith or science. But it has never happened and will never happen that anyone renounces, in order that the sum of happiness that is given in the world may become greater." This objection overlooks precisely that what is principle for the valuation of an action, when it is recognized as good, does not *need* to be motive for the action. The thought and feeling of the agent may very well stop at the fatherland, freedom, or whatever other ideal end he sacrifices himself for, without his needing to make any reflection on what

[*)] Just as a distinction is made here between standard or principle of valuation and motive of action, so in the preceding treatise (§ 5) a distinction is made between motive of valuation and motive of action. Because of the close connection between principle of valuation (standard) and motive of valuation (basis) these two considerations nearly coincide.

[**)] Ethik. Eine Untersuchung der Thatsachen und Gesetze des sittlichen Lebens. Stuttgart 1886. p. 339.

conditions the value of these ideal ends themselves. But in a systematic ethics or in practical cases of doubt we discuss the worth and significance for human life of love of country[***)], of the feeling of freedom[†)], of faith[††)] and of science[†††)]. If, e.g., freedom
[29] were not a good for a people, it would be wrong for a person to be willing to sacrifice his life to preserve it. Of course it is never in the single case a question of the abstract concept of welfare in and for itself, any more than in a special theoretical investigation it is a question of the abstract concept of cause in and for itself. But we set up in ethics the principle of welfare and in the theory of knowledge the principle of causality, when we by way of analysis have sought the first presuppositions for our practical and theoretical (evaluating and explaining) mental activity. —

3. It does not conflict with the principle of welfare that pleasure so often must be bought with pain. For the pain then stands merely as the necessary transitional step, and the significance of the principle of welfare is precisely to maintain that the burden of proof rests upon him who asserts that such a transitional step is necessary. Every infliction of pain must be motivated, whereas the feeling of pleasure in and for itself (when that which calls it forth does not at the same time cause greater unfortunate effects) is justified. The principle of welfare says merely: produce as much pleasure and as little displeasure as possible by your acting! To what degree it is possible to fulfil this demand, on that the principle of welfare in and for itself contains nothing. A principle is not overthrown by the difficulty of applying it. And experience shows that there is a feeling of pleasure that is not bought too dearly, even if deep pain goes along with the purchase. Against the principle of welfare Clärchen's song (in Goethe's "Egmont") has been adduced: "Himmelhoch jauchzend, *zum Tode betrübt*". But let Clärchen speak out, and let us note the song's last lines, in which she draws the result of her whole series of moods: "Glücklich allein ist die Seele, die liebt!" The point is: there is a movement in the mind, a life in feeling, which is connected with so deep and great a satisfaction
[30] that the strong oscillation between pleasure and pain does not cancel the total feeling of happiness, but precisely strengthens it. Two psychological laws work together here. The one is that according to which the pain (or displeasure, or sorrow), when it does not exceed a certain limit, can form a background for the feeling of pleasure and thereby heighten it. Already in this lies a sufficient motive for choosing such states instead of those that do not reach so high in intensity, although they are on the other hand

[***)] See my "Etik". ch. XXXVI.
[†)] Ibid. ch. XXIII and XL.
[††)] Ibid. ch. XXXI—XXXIII.
[†††)] Ibid. ch. XXVIII and XXIX.

more uncompounded states of pleasure. The other law is that in sorrow itself there can be something attractive, probably because the strong life, the vigorous movement, the tension of the faculties that goes with it, in and for itself brings a satisfaction. All exertion of force that is not disproportionate is connected with feeling of pleasure. In the midst of sorrow a feeling of pleasure in the very strength and violence of the sorrow can thus assert itself, which shows itself in that one does not *will* to be torn from it. The organic discharge that is connected with every strong mood is an important element here, even if it should not contain the full explanation. — When Auguste Comte had lost the woman who exercised so decisive an influence on the direction of his mind in the last period of his life, he once said in an address he directed to his memory-image of her: "Only to you do I owe that I shall not come to leave life without having in a worthy manner come to know the best feeling of human nature… In the midst of the heaviest pains that the feeling can bring, I have never ceased to feel that *the most essential thing for happiness* is to have the heart filled in a worthy manner, even if it is with pain, indeed even with the bitterest pain." — Auguste Comte and Clärchen are thus quite in agreement, and the morality of welfare is in agreement with them. With the great movement of life and fullness of life there follow also the great costs, the great contrasts and the great *[31]* oscillations. It is a matter then of having courage to venture and choose. Who has said that the highest was to be had for a low price?[*)]

We simply have no other psychological criterion of the health and vigor of life than the feeling of pleasure. That which — in *all* its nearer or remoter effects — causes only feeling of pleasure in all the beings it affects, cannot possibly be rejected. To this extent welfare, defined as lasting feeling of pleasure, is the ultimate principle of valuation. It does not conflict with this that the highest we actually know often, through some of its conditions, entails great pain. Whoever wants to be secure against privation and sorrow must not love anything whatever; but if now love itself were the highest happiness?

Pain is everywhere a sign of a beginning dissolution of life[**)]. In the simplest form this shows itself in "physical" pain, which arises by the tearing apart of the organic tissue. It holds also for "mental" pain, which consists in sorrow, doubt or repentance… It points to a disharmony between different forces and impulses in the mind, a disharmony that, by rising, finally can burst consciousness. When pain is nevertheless often a necessary transitional step, it is partly because it (as already shown) by contrast and stimulation can set stronger forces in motion, which outweigh the dissolving forces, partly also because it concerns the dissolution of something in us that hinders a freer and richer

[*)] This last argument I have already set forth in "Tilskueren". Nov.—Dec. 1889. p. 861 f.

[**)] On this theory see: "Psykologi" VI D, 2—3.

unfolding of life. Childbirth is connected with pain, because the new life can appear only by detachment from the old, of which it has hitherto formed a part. Knowledge of truth
[32] is won often with pain, because prejudices and illusions burst. In the pain of repentance a lower self is dissolved, so that a higher self may develop.

4. What has especially occasioned the resistance to the principle of welfare, is surely that one is inclined at the word feeling of pleasure to think first and foremost of the most elementary and sensuous forms of pleasure. The principle of welfare does not exclude these, but includes more than them. It takes account of all sides of the nature of man, in that it maintains that a lasting feeling of pleasure cannot be produced with certainty when an essential side of this nature is left unheeded. The defect of the elementary feelings of pleasure is that for the most part they correspond only to momentary and limited conditions. A being whose feeling is of a purely elementary kind can maintain itself, as long as the simple conditions of life, to which it is adapted, are not changed. Thus some of the lowest animal forms, such as infusoria and rhizopods, seem to have existed for infinitely long times almost as they now are. The adaptation to conditions is here as good as complete. The same may be the case with beings that at an earlier stage of development have possessed more developed forms and organs and therefore probably also have had a richer life of feeling. Animals that in their youth live freely, but later lead a parasitic existence, are wholly absorbed in the life of nutrition and lose all nerves and muscles that do not directly serve this. — Also among human beings there are examples enough of an adaptation to conditions that hinders further development. Of the Fuegians Darwin remarks in his description of their (in our eyes) sad existence[*]: "There is no reason to believe that the Fuegians are diminishing in number; therefore we
[33] must assume that they enjoy such a measure of happiness, however it may be constituted, that life acquires value for them. Nature, which made habit an irresistible power and let its effects become hereditary, has fitted the Fuegian to the climate and products of his wretched country." Also higher-standing primitive peoples, and not only primitive peoples, present similar examples. It is need that drives man onto the path of progress. Where even wretched conditions have not made adaptation impossible, the life of feeling is conditioned only by a narrow circle of conditions. There can then perhaps be attained a more complete contentment than under more manifold and more complicated conditions. A small vessel is easier to fill than a large one[*].

It might now seem that it must be an essential objection to the principle of welfare,

[*]) Rejse om Jorden. p. 242.

[*]) Vas minus majore plenius esse potest, qvamvis liqvoris minus contineat. *Cartesius*: Epistola IV. (De vita beata).

that it must lead to recognizing such an existence, confined to the first necessities of life and to purely elementary feelings, as standing just as high as the existence that is filled with mental work and cultural activity, — indeed, as standing higher than this latter, which will hardly bring so unmixed and secure a well-being, but be connected with ever new want, new striving and new unrest. — An existence like that of the Fuegians probably strikes everyone as miserable and wretched, because they surely often suffer privation and want. But we can also take another example. Alexander von Humboldt met in South America a population that lived on banana trees, which are so fruitful that a tønde of land planted with them can feed 50 individuals. These trees require no real cultivation; only the ground around the roots must be worked with a hoe once or twice a year. These people can, in the double meaning of the word, "nourish" themselves with very little work. Therefore they are also dull and without culture. But the needs they *[34]* have, they get satisfied.

What for us would make such a life unendurable, *the urge to activity, development and progress*, does not exist at such stages. This urge is, as must well be noted, *itself a consequence of development and progress.* — One of Darwin's predecessors, *Lamarck*, assumed an inner, inherent urge to development in all living beings. But *Darwin* has, relying on experience, maintained that development is always initiated by the working of external conditions. For Lamarck it became a difficulty how the very simplest forms have continued to exist, — why by virtue of the assumed urge to development they have not long since passed over to higher forms. He solved this riddle by assuming a generatio æqvivoca, a new arising of the simplest organic beings out of inorganic matter, an assumption which has so far not been confirmed. For Darwin the continued existence of the simplest forms causes no such difficulty. For according to his doctrine only those variations are favored that can be of benefit in the struggle for existence under the given conditions; qualitative selection therefore does not necessarily entail a progressive development[*)]. As regards human beings *Th. Waitz* has clearly shown how the urge to development is itself a product of development: "Of a people without intercourse and without rivalry with others, a people which with relative ease or only with overcoming of accustomed difficulties regarded as necessary can satisfy its need by what immediately surrounds it, and which feels content therewith and lives happily, — of such a people one must not expect that it shall make any effort whatever to civilize itself. *[35]* He who has what he needs and feels well thereby in every respect, he does not work. One does not become civilized without necessity and of one's own accord, or perhaps in

[*)] Arternes Oprindelse. p. 153 f.

order to follow a noble urge that dwells in the heart. Is it otherwise then in our modern society? Does there not first belong a long school of cultivation, to instil in man interest in work as such? Let one reckon up among the so-called educated, how many make an effort for their own or others' education's sake without being compelled to it! One will then cease to doubt the equality of the savages with us, as far as mental faculties are concerned, at least for the reason that they omit to exert themselves without necessity."[*)]

Peculiar to the state of nature in contrast to the state of culture (in so far as one can sharply set these two states in contrast to each other) is that over there the impulse to change in mode of living and way of thinking must always come from outside, whereas here — even if it should be in comparatively small circles — a stronger or weaker urge to advancement stirs, which is always kept up. This difference forms an analogy to the difference between inorganic and organic existence. In the organism the play of forces is maintained with a certain independence of the influences of the moment and of the limited surroundings; in the inorganic world (and likewise when one compares the lower organisms with the higher) external influences play a far more decisive role. Among cultured peoples there has been awakened an urge to change and differentiate, to shape life in all directions and to sharpen it within each single direction. Mental feelers have
[36] grown up which are in uninterrupted activity. A new kind of feelings now becomes possible, feelings whose nature is determined not only by the ends that are attained, but which also attach themselves immediately to the work and the activity itself. Man has thereby become more independent and freer, and his mental life has gained in depth and strength, in that it is no longer determined merely by the external world, but essentially by the forces that stir in the inner world. Higher demands are now also made on life.

The arising of this urge to development can be quite in accord with the principle of welfare. For that stability in the state of nature, which may strike us now as pitiable, now as paradisiacal, is dependent on the stability of external conditions. But an absolutely assured stability is not given in nature. Even if the nearest surroundings are not changed, changes occur elsewhere in the world and among other beings, and the struggle for existence can then force the stable beings either to perish or to develop the capacity for progress in themselves. The more highly developed beings often in the struggle for existence put the lower developed beings to this choice. It is put to many primitive peoples, or cultured peoples, that have remained standing at a lower stage; they so often go to meet their doom when the higher culture approaches.

What has here been shown by examples from races and peoples can also be shown

[*)] Die Indianer Nordamerikas. Leipzig 1865. p. 69.

for the single individuals. A perfect adaptation to limited conditions always includes a danger: the danger that the individual, when its conditions of life and its horizon are widened, shall not have the inner conditions for asserting itself. Childlike naivety, dreaming fancy, sensuous enjoyment each have their right and their significance; but the state easily becomes a sleepwalker's state, in which there is only security and happiness until the awakening occurs, and where the greatest helplessness can set in at *[37]* the awakening. And here we leave entirely out of consideration that such states often exist only at the expense of other beings, in that these either must give the sleepwalker help or at least do without his slumbering forces.

Welfare can therefore not consist in a passive state, produced once for all, a state that is not itself the point of departure for new development and progress. Welfare must in the highest sense consist in *a state*, in which force has been gathered up and rich possibilities laid down for the future, and which engenders an urge to set new ends and to initiate new striving. It must consist in a state, *that both in and for itself is desirable and engenders striving after new desirable states, thus a state that is not only end, but also means, not only has value as effect, but also as cause.* The feeling of pleasure attaches itself here immediately to the activity and the work itself, to the unfolding itself of the forces, not merely to the result. Where such a feeling of pleasure is possible, there many sufferings become endurable, which on a lower level would be signs of the dissolution of life itself. Tension and longing, disappointment and privation cannot fail to appear and will with a certain rhythm succeed the cheerful advance toward the goal one has set oneself; but through all oscillations the basic direction and the basic impulse can be preserved.

This is the ideal that the principle of welfare, when it is thought through, calls forth for us. How far it can be attained is a question which at each given time and for each single individual must be answered by an experimental way. Very often what is at stake is not only changes in the nature of the individuals, but also in the ordering of society or even in the external nature, if an approach to the goal is to take place. But for us in this *[38]* context the main point is that we here have a standard for the assessment of actions and institutions,

This standard corresponds to a tendency that runs through the whole of organic nature, where pleasure on the whole and in the large indicates life and advance, pain decline and death. The principle of welfare maintains *the right of life*: every being has a right to exist and develop, in so far as thereby no so much the greater pain is produced for other beings. The ethics that builds on the principle of welfare thus seeks to continue the

development of nature in a more conscious and harmonious manner. It calls for seeking means to life and advance which the unconscious development of nature would not lead to, and it strives to exclude the unnecessary pain and distress which the blind struggle for existence brings with it. It comprises a series of tasks extending all the way from the alleviation and help which compassion motivates, to the work for the realization of the highest social, aesthetic and intellectual ideals. It is the task of special ethics to investigate how these various tasks are to be treated, and how they relate to one another.

5. But because welfare consists in activity and development, one cannot conversely say that activity and development are necessarily connected with welfare or lead to welfare. Because it is incorrect to believe that limitation of the needs always leads to the goal, it by no means follows that unlimited multiplication of the needs should be the right thing. Cultural development can assume forms and strike out on paths that do not agree with the principle of welfare. We therefore also find in history at times sharp and penetrating warnings against the existing culture. Thus in Greece by Socrates,
[39] the Cynics and the Stoics, in the eighteenth century by Rousseau and in our day by Leo Tolstoy. The opposition of such great minds must in every case make us attentive.

I here set aside the question whether that which we call culture can without more be imparted to any people. Even if one has been too quick to deny primitive peoples the capacity to receive civilization, it does not follow that it would be a good for a people to give up the forms of life developed in and through itself, in order to let itself be regulated according to forms and ideals that are developed under wholly different conditions. So directly cannot even the most justified and perfect culture be imparted. *Waitz*, who expressly maintains that no proof has been given of the Indians' incapacity for culture, nevertheless praises those Indian chiefs who opposed the penetration of European civilization into their people, for "love of their people and right insight into its true welfare." There lies here (as in the clash of ethical systems) a possibility of tragic conflicts, of which the history of the Indians in particular offers many examples.

The reason why conflict can arise between culture and welfare lies in the restlessness and recklessness of the striving for culture. It is with it as with the involuntary ("spontaneous") urge to movement, which leads to using forces and limbs, merely because energy is present, without regard to a valuable end guiding it, so that it becomes accidental what result the movement gets. The striving for culture can lead partly to overstrain of the forces, partly to one-sided application of them (owing to excessive differentiation), partly to isolation, to a fragmentary separating out of the individual activities. In the single individual single faculties are cultivated and developed (in some, e.g., the intelligence, in

others the physical capacity for work) at the expense of others; harmony, the capacity *[40]* to feel oneself as whole and unity, is lacking. Such one-sidedness makes the individual acquire value only as a wheel in the great machinery, become merely a means, not an end. It is connected with a one-sided social development; the suppression of single sides in the nature of the individual is caused by the suppression of single estates and classes in society. If one wished to identify culture and ethics and to regard development as a surer criterion than welfare, one would wholly overlook that there is a social question. The social question is an ethical question and at the same time a question of the justification of our culture, both by virtue of the principle of welfare. Would it be right that the products of material and ideal culture should benefit only a small minority, while all others are excluded from sharing in them? That would quite conflict with the ideal of a society that follows the principle of welfare. For the greatest welfare is present where each single individual develops in an independent manner such that it thereby in the best way helps other individuals to a similar development from their peculiar stage. There exists then *a harmonious society of independent personalities*. This is now the highest ethical idea. Each single individual stands as a little world for itself, and yet in the most intimate reciprocal action with the great world, of which it is a part. The individual serves the race, and the race serves the individual. Every special position, every inequality in distribution must be justified by what the various conditions of life and tasks require, and the faculties and impulses of every individual are to be developed as fully and richly as is compatible with what the life of the race as a whole requires[*)].

6. It follows from what has been developed here that the principle of welfare by *[41]* no means is so easy to apply in the single cases as it may perhaps seem. The special connection can be so complicated that we cannot survey it or foresee the effects of our intervention. We cannot deduce from the principle of welfare a priori a system of single actions or an ordering of society or an entire culture. Its significance is (like that of the principle of causality in the theoretical domain) to pose problems and to guide in their treatment. It is regulative, not constructive. It presupposes the immediate, involuntary life in the individual and in society and steps in only when there takes place a conscious discussion of the value of what has thus been developed and of the manner in which it is to be carried further. All ethics thereby acquires a historical character. For we never begin — neither as regards the single individuality nor society — absolutely from the start, but have to work further on a given basis under the guidance of the principles and ideals that spring from our nature.

[*)] See further on this "Etik". p. 31. 164. 227—240.

The Law of Relativity in Ethics.

[42]

I.

The aim of this treatise is to show that the validity of all ethical laws rests on definite relations and conditions, so that the law of relativity, the fundamental law of our knowledge, finds application in the domain of ethics too. It will appear that this view serves in essential respects to characterize the nature of ethical knowledge and of the ethical laws. —

We may begin by examining in what sense and with what right one speaks of ethical laws at all. The word law is not used here in the same sense as in natural science, in psychology and in sociology. For ethics does not seek to demonstrate the rules which human willing and acting actually follow, but the norms and ideals which it *ought* to follow, the standard to which it ought to be subject. The sense of the word law that underlies philosophical ethics therefore recalls the way in which the word is used in positive jurisprudence and also in theological ethics, as well as in the science of positive morality (the norms lying in custom and usage and in existing public opinion). But
[43] from these sciences philosophical ethics differs in that it builds on no external, natural or supernatural authority, but seeks to ground its norms and ideals on human nature itself, as we know it from experience. It has been thought that this circumstance made it inadmissible to speak of ethical laws.

According to *John Austin* a law presupposes two parties, one who gives the law, and one for whom the law holds, and the binding force of the law lies in the fact that the one who gives the law has the power to maintain it by attaching pain to its transgression. Since the law thus maintained by power produces uniformity in the manner of action, the individual actions being determined by the demand expressed in the law, the word law can at the same time come to mean a general rule, which is followed in the individual cases, and it is this side of the concept of law, and only this, that we make use of when we speak of laws of nature. We mean thereby the regular sequence of the phenomena of

nature, without our needing to represent to ourselves this regularity as the effect of the power of a commanding will. Even if this usage can be permitted, Austin flatly denies that the concept of law can find application to the rules of action which the individual human being lays down and acknowledges for himself. For here there is neither a law of nature in question, nor is there a power standing above the individual which could maintain the law in cases of transgression. "For though he can form the sincere resolve to inflict pain on himself, if his conduct departs from the guide he has laid down for it, the actual infliction of this possible pain depends on his own will."*).

Might there not, however, be a *psychological basis for the concept of ethical law*, that could contain the three elements which according to Austin are presupposed in the strict *[44]* application of the concept of law: 1) a relation between superior and subordinate, 2) a general rule of action and 3) the maintenance of this general rule by pain in cases of transgression?

Various feelings stir in man, each determined by its content of sensation or of idea. There is a feeling which is bound up with the individual's own self-preservation. And there are other feelings which let the individual share in the weal and woe of others. Since now every feeling is at the same time a motive of action or engenders an impulse to action, there can appear in man's consciousness an impulse to action which is determined by regard for a more comprehensive order of things, for the welfare of a larger group, over against an impulse to action which is determined only by regard for the individual's own limited interest. There will then be something in the individual which points beyond the individual itself and assigns it a place as a single member of a great whole, so that the welfare of the latter may at times demand the sacrifice of what regard for the individual's own welfare as an isolated being would require. Here, then, there will be in the individual's own nature an opposition between two parties, between an impulse which is bound up with the idea of a greater order of things, and an impulse which has a narrower horizon. The first element in the concept of law is hereby demonstrated. — In reality matters stand no differently, even where the party that gives the law is an external authority. For this authority must after all make itself known to the individual by awakening its feeling (whether this feeling be fear or reverence), and the law will here too reveal itself through a relation between two feelings or impulses in man's interior. For one who can eradicate the feeling of fear or reverence in himself, the law does not exist. It can be seen from this that philosophical ethics has just as much right to apply *[45]* the concept of law as jurisprudence, theology and positive morals. — I do not go further

*)Lectures ou Jurisprudence. I. p. 213 f.

here into how this inner opposition between a more comprehensive and a more limited regard within the life of feeling and of impulse comes about. It is an opposition which has developed historically under the influence of social life on man by virtue of general psychological laws.

Thus the first of the three elements in the concept of law can very well be found again in the laws which philosophical ethics sets up. The same now holds also of the one of the three elements which Austin could least of all find here, namely the sanction, or the suffering brought about by transgression of the law. Austin holds that it depends merely on the individual's will whether it comes to suffer pain by transgressing the law that was supposed to spring from its own nature. But when the ethical law is the formulation of an impulse which is called forth by the individual's feeling being determined by regard for a larger whole, then such an impulse cannot meet resistance and contradiction from other sides of the individual's nature without more or less intense pain arising. When the impulse which causes the individual not to obey the ethical law it has itself acknowledged is unable fully to suppress or eradicate the impulse which led to acknowledgment of the law, then there will arise the inner disharmony, the painful feeling of inner dissolution and degradation, which we call bad conscience or also repentance. And it does not depend on the individual's arbitrary choice whether this pain is to set in or not; it follows with psychological necessity from the conditions at hand. What expresses itself in bad conscience and in repentance is not anything accidental or arbitrary. It is, under
[46] the given circumstances, an unavoidable psychological result — just as unavoidable as external punishment is, when the power of the state is strong, wise and swift enough to lay hold of the transgressor of the civil law. But the power of the state is, after all, not always able to strike the criminal with its punishment, and so it can likewise happen that repentance fails to appear, namely when the impulse which leads to the acknowledgment of a larger whole is extinguished, or when it is not strong and vivid enough to assert itself in opposition to the impulse which led to the performance of the act that was contrary to that acknowledgment.

Finally, the property of the law that it denotes a general rule can also be demonstrated in the ethical law. In the idea of the larger whole to which man feels himself bound — the family, the clan, the nation, humanity — he has a principle from which general rules for his willing and acting can be derived. If the individual is not to contradict himself, he must judge the state and direction of his will from the most universal and exalted standpoint he knows, from the thought of the great whole of which he feels himself a single member. The particular rules follow with logical consistency from this thought,

once it has been acknowledged. Ethical science is then only an unfolding of what is implicitly given in universal sympathy, as this has developed historically in the human race. —

But when it has thus proved justified to apply the concept of law in ethics, the preceding argument also implies that both the general principle and the rules which are derived from it hold only *in relation to* and *on condition of* a definite psychological basis. If there should be human beings who lack this basis, they neither could nor would acknowledge the ethical laws. How one must take up a position toward such individuals, *[47]* if they exist, is a matter by itself, which we shall come to touch on later; here we assert only that all ethical laws hold only in relation to a definite psychological presupposition. This is the *psychological* relativity of ethics[*)].

II.

But it is not sufficient to establish the psychological basis and to set up the corresponding ethical principle. The relations under which the rules following from this principle are to be applied are so intricate and complex that it is difficult, indeed impossible, to find rules which could without further ado be applied in all *special relations and situations*.

The *general* law or rule cannot foresee all possible situations in which a human being may be compelled to take a decisive resolution. It is a difficulty which the ethical law shares with the juridical and the theological law, as well as with the law of positive morality. Life is too rich and manifold to be put into a fully finished system. The relations pass over into one another through many different nuances and intermediate stages; sharply drawn boundaries do not exist. The general law, which is to fit *all* cases of a certain kind, easily becomes inapplicable in the individual determinate case, which may be altogether unique. The ethical law must therefore — if it is not, for the sake of an apparent formal consistency, to sacrifice the real right of life — fix the general *tendency* or *direction* which the will is to follow, and not give special instructions as to how in *[48]* every individual case one is to act unconditionally. Only in this way can the universal validity of the law be reconciled with the relations, which differ at different times and in different places. This one may call *the historical relativity* of the content of the ethical laws[*)]. Proceeding from the same psychological basis and in accordance with the same general principle of valuation there will under different historical relations, in different situations, be different decisions to make with regard to the ordering of society and the conduct of the individual. What is possible at one stage of development is not possible at

[*)] Cf. my "Etik". p. 35—37. — See above p. 7—17.
[*)] See my "Etik". p. 160 f.

another. From the general principle of welfare (any more than from any other principle) no ordering of the state or the family can be constructed which could without further ado be introduced everywhere. Every social order presupposes that those who are to be the members of society live under certain definite inner and outer conditions. On bare ground no building can be erected.

The ethical laws do not hereby lose their significance. They cannot tell us how on the sea of life we are to manage each single wave that rises before us, or how we are to tack in the individual cases. But they can tell us in what direction we are on the whole to steer, and they make it possible for our compass to guide us without deviation, even if the road be ever so winding and irregular. They formulate the general demands that the highest end we acknowledge makes of us. The means of satisfying these demands may shift within wide limits. But when the general direction of the will is given, and when there is sufficient strength and consistency in character, the individual ways and means
[49] too will be found, without one's coming into conflict with the principal end. *Kant* has rightly said that casuistry is not a science but an art, "not a doctrine of how something is to be found, but practice in how the truth is to be sought".

Casuistry concerns the problems which the intricate nature of the given objective relations poses, when a decision in accord with the ethical principles is to be made. It seeks to analyze the relations into their elements in order to find out what the consequence of the general principles must be under these particular relations. It sets up general rules for cases of conflict or seeks by means of invented examples to exercise the ability to find what is right. But analysis and general rule cannot always be transferred from one case to another. It may e.g. be correct that a higher, more comprehensive end is to be fulfilled in preference to a lower, more limited one; but the difficulty is precisely to decide what in *this particular* case is the most significant end. Setting aside the varying multiplicity of the cases, all ends hang together in such a way that one cannot intervene in one of them without its having effects on a great number of the others; and how then to cast up with certainty the account of what will prove to have the preponderance on the whole, the beneficial or the pernicious effects of a certain kind of intervention?

One cannot say without further ado that the more comprehensive regard in the individual case is to have the preponderance over the limited regard, so that e.g. where the interests of the state and of the family come into conflict, the family ought always to yield, or my interest is always to be subordinated, where it comes into conflict with those of several others. For the sound development of life depends not only on its extent, but also on its strength and inwardness, not only on extensity, but also on intensity. In

the narrower society a more inward and fuller life can be lived than in the large society, *[50]* and the very force that holds the large society together unfolds and is exercised in the smaller societies, so that the vital strength of the former depends on that of the latter. Within the narrower society there arises a fellow-feeling, which after having grown strong can be extended to become an essential part of what supports the larger societies. The real productivity takes place in the smaller circles; from them the new thoughts and the new forces proceed. Therefore regard for extent cannot without further ado become decisive in cases of conflict. Something similar holds, as regards the individual's self-preservation. The life of the race gains in strength the more and the better the individuals are able to preserve and assert themselves in material as well as in mental respects. Within individual ethics, therefore, self-assertion is not without further ado to be sacrificed to devotion, any more than within social ethics the interest of the narrower society is always to be sacrificed to that of the larger. — But how difficult may it then not be in the individual case to make the right decision, so that neither the strength and inwardness of life nor its extent and diffusion suffers harm? —

Another case in which there may be use for casuistry is the relation to other people's prejudices. Here Bentham[*)] has given the following rule: "He who frivolously and without necessity attacks a prejudice, and he who submits to being led like a blind slave by prejudice, both go astray from the right path of reason". — But how can one decide in the individual case whether there is necessity present for an attack, or whether it would be unworthy slavery to accommodate oneself to the prevailing prejudices? Here the *[51]* relations vary in a particularly high degree, since the question is whether the individuals we face have the conditions for fighting through the (perhaps both outer and inner) struggle into which we plunge them by attacking what has hitherto stood immovably fast for them, and what perhaps has given their life support and strength. —

Bentham thinks, to be sure, that in our days one is too inclined to deny that the laws which for our time are the best possible would also have been so in earlier times. There are laws which would have been beneficial at all times. But he expresses the principle of historical relativity in a striking manner in the following words[*)]: "If I were to choose what I would with greatest truth and readiness ascribe the magnificent qualities of generality and immutability to, it should rather be certain *grounds* of the laws than the laws themselves: rather the *principles* on which the laws are to be built, the subordinate *considerations* which follow from these principles, the best plan according to which they can be combined, the *regards* by which the legislator ought to let himself be guided, —

[*)] Of the influence of time and place in matter of legislation. (Works. I.). p. 180.
[*)] Op. cit. p. 193.

than any particular laws whatsoever which the legislator ought to give, in order that those who are entrusted to his care might be well governed".

III.

1. Besides *the psychological basis* and *the historically given situation*, there is yet a third factor to be taken into account, a third relation, by which the ethical decision in the
[52] individual cases must be determined. It is this third point which it was in particular my intention in this treatise to call attention to, because it has received less notice than the first two (especially than the second). It arises from the fact that different individuals on the same basis (and therefore with the same ethical principles) and in the same situations meet with *different predispositions and capacities*. Just as little as the same principles lead to the same consequences in different situations, just as little can they in the same situation lead to the same consequences, when the willing and acting individuals are differently endowed. We stand here before *the individual relativity* or the personal equation in ethics[*)].

The different ethical conceptions seem on the whole to agree that the ethical laws or commands are the same for all in the same situations. The ethics which lays the principle of authority at its basis proceeds from the assumption that the will of authority demands the same of all individuals. On the one side stands the eternal will, on the other side men, who are to obey its commands. In a similar way the laws of the state and the commands which custom and usage impress, are the same for all individuals. There holds, as one says, no respect of persons. According to the morality of reason a general law arises from human reason, which everyone must follow at the risk of coming into conflict with himself, that is to say: with the universally human in his nature. The adherents of the principle of welfare too have as a rule been inclined to conceive the matter in a similar
[53] way. The ethical laws they derive by deduction from the principle of welfare, combined with the given situation, and these laws are then to sound alike for all.

That there must be an error in this assumption can be seen in the following way. *On account of the individuals' different capacities and impulses, one and the same demand will take on a highly different significance* for them. The demand for a certain degree of self-control with regard to some natural impulse will thus be able to mean something highly different for the different individuals, in that each of these may have the natural

[*)] In my "Etik" p. 133—134 I have already emphasized this point. It is expressed more definitely in the German edition (Leipzig 1888). p. 154 f., where I have designated the law of individual relativity as the law of relativity in ethics. The concept of a law of relativity may, however, be given a wider sense, so that the psychological and the historical relativity also come under it.

impulse constituted in a different degree. What the one can do without the least effort, because there is an immediate harmony between the demand and his original nature, the second can do perhaps only after a serious, wearing struggle, whereas the third perhaps is altogether unable to overcome his unruly nature. What for the first accords with the natural inclination itself becomes for the second an act of duty performed with strong exertion and conscious willing, and signifies for the third a task which he cannot solve, since from the first he lacks the conditions for it. The law is thus in *reality* not the same for all three. And now it is of no use to distinguish between the law in itself and the individuals' different capacity to fulfill it. The ethical law differs after all from a theological or juridical law in that it springs from human nature itself. It does not come from without, but is to unfold for the individual out of the innermost of its being. It cannot then be attained merely by deduction from principles and situations which are common, and which contain no regard for the peculiarities of the single individual. So long as only those two points are included in the deduction of the law, it cannot be the individual's own law, but an abstract impersonal demand. *The truly ethical law must not only be directed to the individual, but also be individualized in such a way that the individual's being comes to development through satisfaction of the demand of the law.* [54] It must take regard of the special starting points for willing and acting, which lie in the nature of the single individual. It would otherwise demand something different, and more or less, of the one individual than of the other: only when it sounds different for each single individual according to its possibilities does it in reality make the same demand of them.

This follows quite simply from the principle of welfare. The single individual is not merely subject to the law which declares what the welfare of the race demands, but is itself a peculiar member of the race. In the law which holds for it, therefore, two regards must meet in a harmonious way: the claims of the race and of the individual. The law has not been found, is not the right law, so long as not both these regards have come into their full right. In striving and working for the welfare of the race, the individual must at the same time work for its own welfare as part of the race. Therefore he must have his special ethics, which both qualitatively and quantitatively is different from that of the other individuals, in that his nature and dispositions become co-determining of the way in which the law shapes itself for him.

It would be a great misunderstanding if one were to draw from this the conclusion that all self-sacrifice was to be rejected. The self-sacrifice which springs from enthusiastic love, from free resolve, is precisely an expression of the individual's own innermost

being, an outlet for a deep urge in it. In ideal self-sacrifice self-assertion and devotion go in one: life acquires, strange as it sounds, only value by being sacrificed. (See p. 23. 29ff.). The question is precisely in the individual cases whether there is capacity in the
[55] individual for such self-sacrifice. This kind of action can no more than other kinds of actions be demanded with equal ease of everyone. Here the problem emerges, since the capacity and the impulse to enthusiasm and devotion are in fact not the same in all.

Just as, according to Fechner's law, sensation does not depend on the absolute strength of the impression, but on the relation between the present impression and the preceding one, which has already affected the sensing individual, so from a purely ethical standpoint the demand which is in reality made on the individual must not be one with the demand which — without regard to the individual's presuppositions — could be derived from the general principles and the given situation, but depend on the relation between this purely objective demand and the individual's presuppositions or dispositions, and this relation will be different for the different individuals. The purely objective demand may be compared to a burden, which in itself has the same weight, but which is felt differently on the shoulders of different individuals.

It is thus a complete individualization of the ethical law which is hereby demanded. The formulation which can fit all, or at any rate a great number of individuals, can only be coarse and superficial. In the determination of π we can at times content ourselves with $\frac{22}{7}$, whereas we by making greater demands on accuracy arrive at several hundred decimals, and can still always think of greater accuracy. Just as in the psychological description and understanding of a character there is always something that escapes us, because it is impossible to grasp all nuances and bring out the individual qualities in their whole multiplicity, so too in the determination of the individual task there
[56] will be individual nuances for each single human being, which cannot be represented exhaustively in any formula. Or rather: into the same formula there must be inserted, for each single individual's part, particular coefficients. The juridical laws cut everyone to one pattern, and the current ethical laws do so too to far too high a degree. A fine sense for the individual differences in qualitative and quantitative respects is still extraordinarily rare.

The same line of thought which led ethical valuation to go back from the action to the motive must consistently be carried a step further and take regard of the predispositions and dispositions which condition the arising of the motives. The possibility of a motive's arising is not the same in all individuals. Only an absolutely indeterministic conception

could suppose that (as a German jurist*) has put it) "the moral capacity to inhibit lawless impulses is an unchangeable quantity, which is normally to be posited in all human beings without regard to individual predispositions". Such an assumption conflicts to such a degree with all psychological experience that it will surely become rarer and rarer in scientific circles. — And besides, it is not enough that a motive can assert itself with a certain strength. The influence it can gain on the will will depend on the strength of the other motives in relation to it. Thus, as Butler**) already remarked, two persons may have exactly the same degree of compassion; but in the one there stirs a very strong ambition or desire for revenge, in the other these feelings are very weak; they will then be placed highly differently in ethical respect. It is here as with a pair of scales: which *[57]* scale is to sink depends not on the weights that are placed on the individual scale, but on their relation to the weights that are placed on the other scale.

2. The first thinker who has directed his attention to the ethical problem here brought forward is *Aristotle*. In presenting his well-known doctrine of virtue as the right mean he expressly impresses that objectively considered (κατ' αὐτὸ τὸ πρᾶγμα) the mean is the same for all, in that two extremes can be indicated, from both of which it is a matter of keeping equally far away, but subjectively considered (πρὸς ἡμᾶς) it stands differently on account of the individual dispositions. Just as little as one and the same quantity of food suits the practiced athlete and the first-time beginner in gymnastics, just as little will for all the inner midpoint of the life of the impulses be situated at the same place (τοῦτο δ'οὐχ ἓν οὐδὲ ταὐτὸν πᾶσιν)*). What in the one must be called courage, in that in him it presupposes the subduing of a strong timidity, that can be practiced altogether without exertion of will and self-conquest by the other. This way of regarding things Aristotle carries through in an interesting manner with regard to the individual virtues. — This Aristotelian doctrine, which testifies to a surprisingly fine eye for the significance and right of the individual personality in ethical respect, stands, as I have pointed out in another place**), in a strange disharmony with the altogether predominant place that Aristotle gives to the state in relation to the individual. Aristotle has made no attempt to show how that apparently ultra-individual doctrine can be reconciled with the objective, social way of regarding things. Socially there is demanded — so it seems at least — often *[58]* with necessity more of the single human being than he can yield according to the "right mean" determined by *his* nature. In the relation between individual and society there

*)Quoted in Vierteljahrsschrift für wissenschaftliche Philosophie. VI. p. 201.
**)Sermon, XII.
*)Eth. Nic. II, 5. p. 1106 a, 32.
**)"Etik", p. 133 f.

emerges a series of problems for which the ancient thinkers as yet had no clear eye. Nevertheless that Aristotelian doctrine stands as one of the most ingenious points of view that has ever been advanced in ethics[*)].

One might perhaps think that it is a problem insoluble in and of itself which Aristotle, without knowing it, has posed by his doctrine of the individually determined "right mean". It might seem that a choice must be made between two equally unfortunate ways out. The one way out would be an ethical subjectivism, according to which every generally valid ethical law falls away, since the law becomes altogether different for each single individual. The other way out would be an irreconcilable conflict between the single human being's individual ethics and the ethical claims of the social life of man. — The conception of the ethical law which has been advanced in the foregoing nonetheless helps us out of this dilemma.

Subjectivism is repelled by the fact that, despite the different forms the ethical law must assume in and for the different individuals, the *direction* of their striving can nonetheless be the same. The ethical laws formulate, as we have already seen from
[59] another standpoint, tendencies or directions for the conduct and ordering of life. When several ships tack up against the wind, they attain — on account of their different build — with equal exertion different results; but they can nonetheless all keep the direction; this lies in the continuation of the course they hold. The objective way of regarding things need not therefore fall away because one maintains the individualization of the ethical law. The individual differences in predispositions and impulses ethics must take as factual starting points, which cannot be erased, but from which it is a matter of bringing out the most possible. They entail, to be sure, a barrier for ethics as a science, but a barrier, which bears witness not merely to the limitation of our thinking, but first and foremost to the rich multiplicity of life, which cannot be fitted under definite rubrics, although what stirs in the many individual existences can nevertheless be directed toward the highest goal of all human acting. This goal is at the same time so exalted that the significance of the individual differences for the ideal way of regarding things is restricted to a high degree, if it does not altogether vanish.

The other apparent consequence falls away, when one thinks through more closely the relation between individual and society, and when one at the same time grasps the real significance of the ethical laws in the right manner. — The single individual is

[*)] In more recent times the thought of the individualization of the ethical law has been advanced by *Jakobi*, *Schleiermacher* and especially by *Beneke* (Physik der Sitten. 1822), and in our own literature by A. S. *Ørsted* in his beautiful treatise "om Grænserne mellem Teori og Praxis i Sædelæren" (1811), which is reprinted in the first volume of "Eunomia".

from first to last a member of society, and *the life of society is the life that stirs in all the single individuals*. Society's goal is therefore not reached so long as its demands on the single individual bring about an irremediable disharmony in the latter's interior. When the will of society cannot be carried through without the single individual's being cowed or broken, that points to an imperfection in the very order of society. The ideal is reached only when the work the individual performs in society's service at the same *[60]* time serves for the unfolding of its own capacities and impulses in a free and harmonious manner. The greatest welfare is present only where every single individual develops in an independent way and precisely thereby in the best manner helps forward a similar development in the other individuals. Thereby he comes at one and the same time to stand as goal and means. What is decisive is that in the interior of the single individual a work is performed in the *direction* of the ethical end; *how much* work can be performed will depend on the forces and vary with these. Any law which would fix not only the direction of the work, but also its quantum ("the quantum satis of the human will", to speak with Henrik Ibsen), can only indicate an average or lay down a minimum. Thus it goes with the ethical laws in their historical form. The standard that the individual at a given time and in a given people applies to himself will always bear the stamp of time, rank and race; he sees himself as he imagines that an impartial spectator among the human beings he knows would look upon his conduct. And even if the demands that he thereby feels made upon himself are satisfied by him more by the general direction, the animating frame of mind in his willing, than by a series of adequate actions, it nevertheless has its *pedagogical* significance that the demands appear to him bearing the stamp not only of ideality but also of objectivity. The sooner and the more easily will the impulse be awakened to get beyond the hitherto existing state. The contrast between the ideal and the social demand on the one side, and the individual's actual willing on the other side, can often be a necessary transitional stage for the ethical endeavor, as it is possible according to the individual's own nature, to come about. A spark is necessary to release the bound-up force. There are natures that first through a painful conflict with *[61]* the objective norms get their strength sufficiently freed, for whom there is thus no other way to harmony than through disharmony. — The two propositions: that the ethical law is to formulate the direction of life, and that it is to work pedagogically, are closely connected. Both demands are namely satisfied by the ethical law's setting up *types or models*. A model indicates the direction and at the same time calls for imitation. But here a clear difference does appear between scientific ethics and practical-popular ethics, between moral philosophy and moral preaching. Practically it has great significance that

the goal be set high for all, in order that their forces may be released. It seems indeed to be necessary to demand too much, in order that what is sufficient may be yielded. Scientific ethics in its determination of the concept of the ethical law cannot take regard of practical technique. How easy or difficult it is in practice to find the law that holds for each single individual according to its peculiar nature, makes, scientifically speaking, no difference to the matter. — On the other side there is presumably no question either that the more individualized moral preaching becomes, the more effective it will be. Moralizing en bloc hardly helps much. It is thus — despite the apparent opposition — nevertheless an ideal that scientific ethics here brings forth for the practical art of moralizing.

3. One might say: "The ethical law is after all a consequence derived from the principle of welfare, which cannot be shaken out of regard for the nature of the single individual. What by virtue of a general principle is right and proper must be so for *all* individuals." But, as already shown, each *single* individual with its presuppositions and predispositions belongs nonetheless to the circle of beings whose welfare is to be
[62] promoted. If an inexorable demand is made on it for something that really lies beyond its capacity, then there is a disproportion, contrary to the very principle of welfare, between society and individual, a disproportion whose cause does not *need* to lie *solely* with the individual. The suffering the individual comes to endure on account of the disproportion between its nature and the claims of society is therefore not merely to be conceived as punishment, but also as a fate, just as the suffering which springs from the lack of agreement between the individual's nature and the external conditions of nature. When it turns out that changes in the order of society and in the conditions of life which are thereby prepared for the single individuals, often have far greater influence on the number of crimes than reforms of the penal system[*)], then it is clear that one cannot set the historically given society with its claims as absolutely justified on the one side, and the single individual with its determinate nature and dispositions as absolutely obligated on the other side. The single individual is, after all, in relation to society never merely cause, but always at the same time effect, and — what must especially be emphasized — it is effect before it is cause. Even if there lay in the individual's nature unfortunate, antisocial dispositions, then these might perhaps through a better order of society be inhibited, diverted or converted into harmless forms, whereas the present order perhaps directly affords them conditions for a luxuriant development. And

[*)] G. *Tardé*: La criminalité comparée. p. 61: Changez les conditions, s'il se peut, de la société, bien plutôt que son système de pénalité, et sa criminalité se modifiera. — On the social causes of crime see *Mischler* in "Handbuch des Gefängsnisswesens", herausg. von Holtzendorff und Jagemann II. p. 447. 481 ff.

the more society's order comes about according to conscious deliberation, the greater becomes its responsibility toward the individual. *[63]*

If this conception is correct, one must expect to find traces of it also in theology and jurisprudence, although these proceed from the opposition between an absolute objective law on the one side and the individual, who has to obey it, on the other. I find in the role that grace and pardon play in theology and jurisprudence a trace of the thought of the individualization of the true law that I have here sought to develop. In grace and pardon there is, namely, expressed more or less clearly a regard for the individuality of the agent and for his subjective conditions. The orthodox doctrine even assumes, after all, that the natural man *cannot* fulfill the law! Grace thus fails to acknowledge the law by maintaining that the whole individuality of man is not touched by the opposition to the commands of the law. In the very possibility of a reconciliation there lies the implication that the law was not absolutely justified toward the individual; — otherwise the reconciliation would be a plain self-contradiction. And when, according to the orthodox doctrine of reconciliation, God himself, the giver of the law, makes the sacrifice by which the transgression of the law is atoned for, one might find in this a symbolic expression of the fact that it is the law, not man, that was in the real wrong. — According to the juridical conception pardon is quite simply "justice's self-correction"[*)], or, as an older jurist[**)] puts it more fully: "To remedy the imperfections of the laws in their application, wisely to even out the disproportion between the lawful punishment and the culpability of a single transgressor, between the unchangeable, general law's inflexible severity and the manifold changeabilities of individual guilt, and thus *to reconcile justice with equity*, this power is placed with the right of pardon in the sovereign's hand." If justice itself needs to be corrected, this must come from its imperfection! — In the juridical-theological opposition between sin and grace, crime and pardon, there is an oscillation to both sides of the center point in which the real truth lies. Because of the difficulty of hitting the center itself, one first moves a little beyond it to one side, then a little to the opposite side. Instead of moving along the diagonal, one moves first along the one, then along the other of the parallelogram's two sides. And as already indicated, there seem to be natures that can develop only through such oppositions, and that cannot move along the diagonal. *[64]*

In the modern development of the penal system I find the same thought, more or less consciously, lying at the basis. — When the minimum of outward morality that the state demands of its members in reality makes different demands of individuals according to

[*)] *Jhering*: Der Zweck im Recht. I. p. 428.

[**)] *Anselm v. Feuerbach*: Aktenmässige Darstellung merkwürdiger Verbrechen. Giessen 1828. I. p. 353.

their different nature, then it is the duty of the state to take these differences into account and to find starting points in the nature of the individuals for a development toward what the law demands. Not everything is accomplished by laying down the law and imposing the punishment. The recognition also seems now to have awakened that the execution of punishment is of no less importance than penal legislation and penal sentences, and that the experiences gathered during the execution of punishment ought to become of essential significance for the criminal law of the future. It is precisely in the execution of punishment that the individualizing moment emerges, which penal law and penal
[65] sentence can only most imperfectly allow to come into its own. The experiences gained in the execution of punishment will therefore react more and more on the ordering of the criminal law. Thus *Franz von Holtzendorff* has recently stated: "The modern theories of punishment must far rather be derived by way of induction and *from the experiences of the execution of punishment* than, conversely, the execution of punishment from a priori theories"[*]. It is also recognized more and more that what one has to deal with in the penal system is not crimes as objective facts, but the personalities of the criminals. It has therefore been demanded that the unalterable sentences be replaced by sentences that fix an indeterminate term of punishment, so that account may be taken of the individual's character, as this shows itself during the execution of punishment. A definite classification of criminals is demanded, with different treatment according to their different character. In the last century (since the time of John Howard) the thought has on the whole asserted itself in all reforms of the penal system that the criminal shall, as far as possible, return to human society not merely cowed and coerced, but truly improved. The experience has become generally recognized that, given their inner and outer circumstances, crime lies infinitely near for many, while for others it lies very far off. The right of the individual against the abstract, impersonal law is thus recognized more and more. Individualization and humanization go hand in hand and are in reality inseparable.

In an ideal state only that would be demanded of each which corresponded to his
[66] abilities and powers. The demand would be adjusted to his peculiarity, just as in education we adjust the demands we make of the child to its stage of development, so that the demand may give occasion for the unfolding of the powers and not for the subjugation of the whole being of the individual. The social disadvantages that would result from the same demands not being made of all individuals would then have to be remedied by special measures. As long as this ideal of a state that educates through all its institutions

[*]Handbuch des Gefängnisswesens. Hamburg 1888. I. p. 387. — The following remarks on the development of the prison system are also taken from this work.

and laws cannot be realized, the state must, through the execution of punishment, perform a part of the work that it has not been able to carry out in a more direct ethical way. The actual order leads to oscillation around the true, ideal order as an invisible center in hard, painful oppositions.

4. By taking the individual factor into account the casuistic problems will be solved as if of themselves. Purely objectively it may be impossible in the particular case to decide whether one should work rather for a larger society or for a smaller, whether the main emphasis should be laid on the dissemination of the culture already won to as many as possible or on producing new culture, which for the time being will benefit only a few, etc. But such questions will as a rule find their decision in the fact that each person has his abilities and dispositions, which condition his calling. In the concept of a calling it is expressed precisely and clearly that a person's duty is determined not merely by the general ethical principles and the given factual circumstances, but also by his own individual nature. The concept of a calling rests on the thought that mastery shows itself in limitation, since all willing and acting must aim at something definite, and that the limitation depends essentially on the individual abilities and powers. It is these that "call," in that power has a tendency to awaken impulse. — If we take activity in the service of culture as an example, there will be those whose abilities best make *[67]* them fit to work in a narrow circle, and whose activity therefore naturally becomes limited to providing for their own maintenance and that of those nearest to them, so that their work at most can have significance only indirectly beyond the narrower circle. Others there will be who are suited to work upon and for many, and who will therefore be good instruments for spreading the culture won so far still further. Still others will have instinct and power to strike out on new paths, to try new possibilities. Despite contradiction and lack of understanding on the part of the multitude they carry on their work and tend the first sprouts of the culture of the future. For the individual who knows himself there will here be no doubt as to where he should turn. But the main difficulty is precisely that of knowing oneself, as already *Socrates*, the founder of ethics, impressed upon us. The Socratic fundamental thought shows itself precisely through the conception I here seek to maintain, of the law as individual, in its whole great and deep significance. Self-deception is so easily possible where it is a matter of finding out one's own ability and marking out one's goal and thereby one's limit. No objective criterion is wholly adequate here, and something must always be ventured, one must act in reliance on what the personal conviction proclaims. Every choice is here a practical hypothesis, the verification of which it is the task of life to supply. If the individual in his ethical

formula inserts incorrect coefficients, the task is not solved.

The same holds when, instead of the work of one's calling, we take *self-control* as an example to illuminate the law of relativity in ethics.

Self-control in particular spheres can occur together with a complete lack of self-control in other spheres. The Indians, e.g., are able to endure the most terrible tortures
[68] when they fall into enemy hands, or when by imposing on themselves the most exquisite sufferings they wish to atone to and honor their gods. Illness, too, they bear without complaint, and they demand of their women that they give birth without cries of pain. In their outward bearing they always preserve the greatest calm, decorum, and seriousness, even when the most violent passions rage in their inner being. But in the face of enjoyments such as food, drink, and games they cannot govern themselves. Only with great exertion did some chiefs succeed in getting it accepted that drunkenness should be regarded as a vice. — This shows that the capacity for self-control is not a constant factor, independent of whatever else stirs in the person.

Still more clearly does this appear in self-control in the sphere of the sexual instinct. The different individuals are here most differently equipped. There are those in whom the instinct works in harmony with sympathetic feelings, so that it demands no satisfaction except where it forms the natural basis for heartfelt devotion to another individual, who is embraced with joy and admiration. This is of all the greater importance because the satisfaction of the sexual instinct falls under ethical consideration chiefly for the reason that it is not possible except by means of another individual. Apart from this relation and the responsibility arising from it the sexual instinct would be to be judged only from a purely individualistic or egoistic standpoint, that is, according to hygienic considerations or according to regard for the harmonious development of the individual's mental and bodily faculties as a whole. The great problem, the ethical difficulty, arises precisely from the question how this mighty instinct, which sets such strong feelings in motion and is so significant for the welfare of the single individual himself, is to be satisfied in such a way that it does not cause physical and moral suffering to other
[69] individuals and does not intrude disturbingly into the right social order. — Besides the previously mentioned happily constituted individuals there are others, in whom the instinct stirs in all its elemental brutality, as a purely physical urge, in the satisfaction of which the object itself may be a matter of indifference. — In still others the instinct is comparatively strong, but they are nevertheless able to divert attention from it by ideal pursuits or other work. — In still others it cannot be mastered in this way. There are on the whole countless gradations here, right up to the "morbidly heightened sexual impulse,"

which according to Krafft-*Ebing* is frequently found in individuals with a "neuropathic constitution," individuals who "for a great part of their lives suffer under the burden of this constitutional anomaly in their life of the impulses"[*]. — The two sexes are as a rule differently disposed in this respect. The harmony between the sexual instinct and ideal devotion to another individual is certainly far more frequent in woman than in man, which may well be connected with the fact that the male throughout the animal world is the more active and aggressive party in reproduction, which is why the instinct in him has such an elemental and ruthless strength as it only rarely has in the female. — But in men, too, the variation of the strength of the instinct and of its relation to other motives is, as said, infinite. In the dispute that is frequently conducted about sexual morality, these countless individual differences are as a rule overlooked, which are nevertheless certainly the most important element in the whole matter. From the opposite sides equally absolute assertions are put forward. From the one side strict, universally valid commands are formulated without seeing that one thereby lays a most different burden on the different shoulders. From the other side one postulates a physiological necessity to which everyone must succumb to. This is a fate that does not exist. The sexual instinct *[70]* appears under other conditions in man than in the animal. When it awakens in man, the capacity for self-control has already developed in other spheres. Ideas and feelings have been set in motion that do not permit the direct dominion of the instinct, and that, when attention and interest in ideal self-maintenance are aroused, can make it possible to subdue it and bring its manifestations into harmony with the other demands of life. Only it must not be forgotten that self-control as a purely negative virtue is a psychological impossibility. It is a proposition that is all too often forgotten in ethics, that an impulse can be inhibited only by another impulse. In self-control it therefore depends not merely on how strong the inclination is that is to be subdued, but also on whether there is the possibility present of other inclinations that can lay claim to the mental energy. What matters is that there be a great love, a great enthusiasm that can fill the soul. The law of relativity in the sphere of ethics proves here to be a simple consequence of the law of the conservation of energy[*]. The energy that our consciousness or our brain commands is at every time limited; the more of it that is consumed for the satisfaction of one impulse, the less remains for the other impulses. Annihilation is impossible, but conversion into other forms may be possible. The great heroes of self-control possessed a great enthusiasm for other sides of life than those they turned away from. The great self-control that the

[*]Psychopathia sexualis. 2. Aufl. p. 34.

[*]One could here also make use of the law of inertia. *Spinoza* proves his proposition: affectus coërceri nec tolli potest, nisi per affectum contrarium et fortiorem (Eth. IV, 7) from the law of inertia.

Indians show in the face of wounds and pain in war, captivity, or religious worship is
[71] conditioned by their concepts of honor, their tribal feeling, their religious faith. In the face of sensual excesses their circumstances of life had given no occasion for the arising of counterbalancing motives. As *Leslie Stephen* has remarked, there develops in man, as he advances in intellectual, aesthetic, and sympathetic respects, a higher sensibility, which brings with it a feeling of disgust and contempt for sensual excesses, apart from their calculable consequences, a sensibility that can act just as directly and imperatively as any of the elementary sense faculties[*)].

The struggle of self-control goes on until the new employment of energy has gained complete preponderance over the earlier. This struggle becomes of a most different kind in different individuals, according to the relation between the original or acquired inclinations. In some the conversion takes place even without struggle; but there are those who struggle hard without gaining firm ground under their feet. The work of will that goes on in these latter is far more serious than that which is performed by the former, although the outward result is far poorer. When Jesus preferred to associate with harlots rather than with Pharisees, it was perhaps because he found in them an inner striving and longing which, though unable to overcome the opposing barriers, yet stood in closer kinship with the ideal ethical law than the self-satisfied correctness of the Pharisees. — — The law of relativity throws light on many ethical questions that would otherwise be insoluble. It teaches us to unite the ideality of ethics with the realistic recognition of the multiplicity of life, in that it shows us that the real ethical development proceeds from a multitude of different starting points, from very different levels toward one and the same goal.

[72] 5. Where the task arising from the general principles and the given situation fully agrees with the individual's own ability and impulse, we have the happiest — and when the task is great — the greatest people. What is characteristic of these is the inner security and harmony with which they — despite all inner and outer struggles — advance toward their goal and fill their place. Here the "organic morality" so called by *Herbert Spencer* is present. That there are such natures is a fact that cannot be denied, however one may then wish to explain it. It is they who provide models for others. It must here be maintained, however, that the task is set the individual not merely out of unchangeable situations given once for all, but that the individual, by virtue of his ability and impulse and in accordance with the highest principles, can also precisely set himself the task of changing the situation at hand, for which this of course must itself contain a possibility. In

[*)] Science of Ethics. p. 102. 195. 200. — See above p. 23.

the great pioneers there develop abilities and impulses that cannot find their satisfaction under the given conditions, and that therefore themselves produce new conditions out of these. Such individuals probably arise through one of those variations that according to Darwin's hypothesis are the precondition for a new form of life to be able to form. Their right coincides with their ability. By the very unfolding of what lies in their nature they provide models for a new direction in one of the domains of human life and thereby become means for the progress of the race. Nature and art, nature and duty act here immediately together. They bear the law within themselves in a higher sense than can be said of those in whom no new possibilities for a higher development lie. Yet "organic morality" may also be found in those whose tasks are essentially determined by the conditions as they are given, if their nature leads them immediately both to the activity *[73]* and to the limitation and self-control that the conditions require.

The complete opposite of such natures would be present if there were to be individuals in whom absolutely no movement or striving in the direction of the ethical ideal, not even the faintest, could be released. All the coefficients in the ethical formula would then be zero. No demand or appeal, however pedagogically formulated, would be able to act as a stimulus. Here we come, among other things, to the question whether there are incorrigible criminals, a question that in the most recent times has been answered in the affirmative with great decisiveness by *the Italian school of criminal psychology and philosophy of law*.

This school has great merits in respect of science. The usual ethical and juridical mode of consideration stops at the action and the motives lying nearest and does not go back to the causes that have produced the whole character of the agent. The formerly prevailing indeterminism has favored this conception. Criminal anthropology and psychology, which owe so much to the Italian school, are working to remedy this one-sidedness. It seeks to establish the criminal's bodily and mental peculiarities and to demonstrate the causes of these. On the basis of these investigations it has set up the criminal type (homo delinquens) as a special variation of the general human type. Among the bodily peculiarities of this type *Lombroso* mentions in particular such properties of the cranium, brain, and physiognomy as must be regarded as deviations from the type of *civilized* man (*regressive* deviations), among others small cranial capacity, a small and narrow forehead. Among the mental peculiarities he emphasizes a remarkable insusceptibility to *[74]* pain, with which presumably a no less remarkable lack of compassion stands in natural connection. The vasomotor reflexes are weak on the whole, and it is rare for the true criminal natures to be able to blush. The moral feeling is lacking, which (as *Despine*

had already stated) shows itself in the great rarity of repentance. This whole type is now, according to Lombroso and the Italian school, to be explained by atavism. It arises nowadays by deep strata from the prehistory of the human race pushing up again in the midst of civilization. In no other way, it is thought, can one explain the unmotivated and ruthless character of the conduct of the true criminals, just as, too, the frequency of relapses and the slight effect of the best-devised systems of punishment are understood, when it is forces from primeval times that stir anew.

The moral sense, says a prominent Italian scholar, Garofalo (in his "Crimonologie"), is the work of centuries. If now — as experience shows — some individuals have not become partakers in this work, but suffer from an innate moral insensibility, which shows itself in compassion's not stirring in them, not even in its most elementary forms — how can one then imagine that any influence and education whatever in the course of the single individual's lifetime should be able to accomplish what for the rest of the race has cost ever-repeated experiences over the course of millennia? Man is good by instinct, not by reflection; when then the instinct is lacking, what other force could then remedy it? Individuals who do not (like occasional criminals) offend on account of passing occasions, but who again and again return to their criminal ways, or who through
[75] the comparatively slight motives of the action and the revolting manner in which it is carried out give insight into an ingrained antisocial disposition, — such individuals it is impossible for a civilized society to assimilate. They would fit into far earlier civilizations, and nowadays perhaps in Dahomey or on the Fiji Islands; but it is hopeless to want to make them elements in our present social life. Toward them society can then have no duty. On the other hand it has toward itself the duty of eliminating such "molecules" as would harm life in the remaining organism. It is an individualistic one-sidedness to want to maintain that criminal individuals of the kind described should have rights as against society. Social necessity is unconditional, and the social reaction tolerates no limitation.

So far *Lombroso* and Garofalo. — The view maintained by these scholars interests us here insofar as it assumes an absolute moral insensibility in some individuals, who would thereby be excluded from belonging in any degree whatever to the multiplicity of starting points from which human development moves toward its ideal. Not only individual relativity, but also psychological relativity would fall away. We would have before us, in the disposition and mode of thought of the true criminal natures, a system that was fundamentally opposed to the ethical system, on which human development, consciously or unconsciously, is built. And there should be absolutely no possibility for that system to be overcome by this one except by a war of extermination. Before we

accept this assumption, we must subject it to a closer discussion.

a. It is always uncertain to infer from particular actions to a person's innermost character and the possibilities it contains. A person's character and its possibilities are *[76]* not exhausted by the single action. According to Garofalo the crime need not even be especially great, and yet the examination of the criminal's character, by means of the information that can be procured, is supposed to be sufficient for a judge trained in anthropology and psychology to decide whether the individual is among those who can accommodate themselves to the demands of civilized society, or whether he must be "eliminated." Indeed, not even an action is needed; an attempt is supposed to be sufficient!

Just as uncertain is the inference that is drawn from the absence of repentance. It has been established especially in condemned criminals or in prisoners such as those with whom Dostojevski had to share prison in Siberia, and who just were not the object of any truly pedagogical treatment. Because repentance cannot be awakened in the short time between the commission of the crime and the execution of the death sentence, and because it could not be awakened in criminals who were subjected to the mode of treatment that until a short time ago was the usual one in prisons, one cannot nevertheless infer from this that it *under no circumstances* could be awakened. — The frequency of relapses likewise points to ingrained, but not necessarily to incorrigible, inclinations.

In the case of imprisonment Garofalo will have no definite time fixed by the sentence, among other reasons "because one cannot measure the share in the crime that the influence of the surrounding conditions had, and that which the individual's anomaly itself had." Only after a longer period of observation, in which one can come to know the individual's character, can the limit of the term of punishment be fixed[*)]. But how can he then in some cases demand absolute elimination? The uncertainty in the knowledge *[77]* of the criminal's character, which means that the length of the imprisonment cannot be fixed in advance, must also make it impossible to establish absolute elimination as the only way out!

b. When the incorrigible antisocial dispositions are explained by atavism, a new problem arises, namely how such marked peculiarities, which concern not merely a single side of the individual's character, but the whole character, have been able to maintain themselves within the race alongside peculiarities of an entirely opposite kind. How has the thread through which the single individual is connected with the primeval generations been able to avoid being spun together with the thread by which he is connected with the nearest generations and with the institutions and traditions that

[*)] La Criminologie. p. 395.

these have produced and handed down? In other words: even if the explanation of the criminal type by atavism is correct*), so *atavism is no proof* that *society has no guilt and therefore no duty toward the individual either*. For when the antisocial germs have been able to maintain themselves so long in latent form within the race and have not been transformed, this must nevertheless come from deficiencies and imperfections in the life of the race. The perfection of social conditions and of the ethical life generally must
[78] nevertheless be measured, not only by what positive progress is made, but also by what unfortunate possibilities are crowded out and abolished. The more perfect a social order is, the more it acts on the innermost being of the single individuals. Atavism is thus itself a sign of social imperfection and does not justify society's being placed over against the criminal individual as the absolute right against absolute lawlessness. — Strangely enough the Italian school, in that it places the criminal individuals outside society both in the physical and the ethical respect, arrives at the same result as indeterminism and individualism, though these are otherwise its antipodes.

c. When Garofalo, like *Despine* before him (and *Anselm von Feuerbach* still earlier), teaches that moral insensibility can remain latent until external occasions betray it, — when he teaches that even if poverty is not the real cause of crime, yet many people would have remained latent criminals if they had not been poor, and if they had lived in a different milieu, — then it seems clear that society must be a contributory cause, since its order always more or less conditions the milieu in which the single individuals develop. One may distinguish ever so sharply between the mere occasion and the real cause; this distinction will always be more or less artificial, in that *the complete cause consists of both the external occasions and the inner dispositions*. There is so much the more reason to emphasize this, since it is after all the "occasions" that bring about the enormous difference between two latent criminals, that the one is declared unassimilable, while the other undisturbed continues his life as a molecule of society!

d. *Inherited dispositions always have a certain indefiniteness*, which makes it possible
[79] that by education and external conditions they can be developed in different directions. What is inherited is only dispositions. It cannot be proved that there is present a fatalistic determination by nature that would make all practical experience, lived experiences, and exertions meaningless. Even if a good education and fortunate conditions should not

*)G. *Tarde* has in his "Criminalité comparée" criticized this explanation and arrives at the result that, even if one must acknowledge unquestionable physiological and anatomical analogies between the born criminals and the savages, and even if the former — like all monstra — present regressive traits, yet these are found in them *combined in a peculiar way*, and one must not judge our forefathers by this sample. (p. 46). But then it is a matter of explaining "the combination" — and that cannot, after all, be independent of social development.

be able to stifle the evil germ, but at most could bring it about that it unfolds without social disadvantages, a bad education will nevertheless do an extraordinary amount toward developing the evil germ. One will therefore not be able to draw any absolute line between what springs from the individual in and of himself, and what is due to the conditions in which he is placed, and which for the most part depend on the order of society. — Very often there is no absolute egoism present. In criminal natures the family feelings can often be very strong, so that the criminal instincts manifest themselves only toward strangers. Here there might perhaps lie a possibility for the awakening of more far-reaching sympathy, just as it is from the family feelings that love of mankind has from the first developed to embrace larger circles. Another starting point might be sought in the criminal's self-esteem and urge to assert his person. Dostojevski remarks that the worst punishment for the criminal would be *useless* work. This is certainly connected with the fact that useless work, like pouring into the vessel of the Danaids, leaves the personality standing as a nothing, which has significance neither for itself nor for others. This last remnant of self-esteem would, without influence from outside, not be enough to overcome the laziness that is a frequent part of the criminal nature; but it can furnish a starting point for education, and the modern systems of punishment are surely with justice convinced that it is above all through work that education is to take place.

e. Because our institutions have not yet solved the great task of preventing the *[80]* increase of crimes, especially of relapses, one cannot therefore infer that there really should be absolutely incorrigible criminals, individuals in whom no ethical striving whatever should be able to be awakened, and who could not at all be brought into relation to the ethical ideal. Even if a complete return to human social life should not be possible, an impulse could still be awakened that led forward in the direction of the ideal, were it only with small steps. A reconciliation would then be possible, and the *absolute* elimination not necessary. — There is no reason to believe that the development of the penal system should have reached its peak. The reform is only at its very first beginning. People have hitherto been more inventive in devising punishments that could satisfy the urge for retribution and the desire to deter than in finding means and ways of influencing the character of criminals in order, through this belated education, to restore what through the order of society had been neglected at an earlier stage. This came from the external way in which crime was formerly regarded. People held *to the fact that* it had been committed, and laid less weight on *how* and *why* it was committed. The Italian school, through its works, which illuminate the character of the criminal from

so many sides, will contribute much to putting a complete end to this incorrect mode of consideration. This merit is independent of the validity of the conclusions that the school itself draws from its investigations.

After all this it therefore still stands as an open question whether there are human individuals who are altogether incorrigible, so that the ethical law, however individualized it might be made, should not be able to come to assert itself in them. For the general
[81] theory that I have wished to maintain, the answer to this question is not of decisive importance. But if my theory is correct, it calls for great caution before one declares individuals to be *absolutely* insusceptible in the ethical respect. If each individual has his own individual law, that question is far more difficult to answer than if one had a right to proceed from an objective law that should be capable of being fulfilled by all. What is demanded is a sense for individual differences and a patience that gives itself time until the hard shell can be broken apart. Toward criminals ("the criminal type") people have long acted as Europeans are wont to act toward the other races. Just as these have summarily been declared to lack the capacity for civilization[*)] and thereby doomed to destruction, so those have been declared to lack moral capacity and thereby doomed to "elimination."

6. In conclusion I will develop somewhat further the thought expressed in the foregoing, that the significance of the individual differences in ethics is not exhausted
[82] by their entailing the necessity of a thoroughgoing individualization of the ethical law, or by life's thereby gaining greater fullness and richness than if it were to and could be cut to fit certain definite, general rules. The recognition of their significance also makes the advance of the race intelligible. — Development within the organic world becomes possible, as Darwin has taught, only through an uninterrupted varying taking place. Of the "spontaneous" individual variations, those are selected and retained that are most serviceable for the continued existence of life. These variations thus retained become, accordingly, typical for the continued development of life. We have an analogy to this in the ethical domain. Those in whom the traits of character that the ethical law demands develop with the greatest power and to the highest degree, and by whom the

[*)] The considerations with which Th. *Waitz* counters the assertion of the Indians' lack of capacity for civilization are of interest in this connection. He says, among other things: "The Indians' long standing still at a very low stage of culture proves little or nothing against their endowment, as long as they have not yet for any longer time been placed in such conditions as at all make progress possible, and this has so far not happened. Indeed, still more. When for many centuries, as far as we know, nothing has acted upon a people from which one could promise oneself a transforming influence on their organization and their mode of life, on their outer and inner life, then it is probable that far stronger powers and a continuous influence sustained over a far longer time are needed in order to bring about any transformation of them at all, however slight, than in the opposite case." Die Indianer Nordamerikas. Leipzig 1865. p. 74.

inner and outer resistance is overcome with ease or, even if it happens through hard struggle, in such a way that they thereby break through barriers that have hitherto halted development, — they do not, to be sure, in a certain sense stand ethically higher than the many who must struggle hard merely to attain an average level of development, and who essentially keep to the hitherto beaten paths, but they nevertheless stand as models who guide, encourage, and console; they indicate not merely *the way and the direction*, as patterns for imitation, but show also *what possibilities are contained in human* nature. Despite the great individual differences all human beings are nevertheless akin, and it is a natural inference that what those furthest advanced have attained must also to a certain degree be capable of becoming accessible to the others. As *Herbert Spencer* has said: "What now characterizes the exceptionally great may be expected some day to characterize all. For what the best human nature is capable of lies within the reach of the whole human nature"[*)]. History shows that the people who stand as ethical models *[83]* for long ages were not always such as had an inner being full of strong and lasting inner oppositions, or whose character bore traces of great inner struggles, but rather harmonious natures, who lived and breathed in great thoughts, to which the other parts of their nature bowed almost without resistance. And this is natural enough, for he whose power is claimed by the inner struggle will not easily be able to present to others the picture of a vigorous personal activity directed toward a significant goal. In the religious idea this has even been carried through to such a degree that the model has been made sinless and people have wished to remove every trace of real, human struggle and striving. This is to shoot past the mark; but it bears witness to the urge for exalted models, an urge that cannot fall away if life is not to become flat and dull.

The solidarity of the race is thus not canceled by the individual relativity of the ethical law. The unity of the race consists precisely in and through the multiplicity of individuals. It is, as I have sought to show, in the common direction and tendency of life that the justification for speaking of ethical law is grounded. And thereby the unity of the race is also established in spite of all differences.

[*)] Data of Ethics. p. 256 f.