THE "MIGHT MAKES RIGHT" FALLACY: ON A TACIT JUSTIFICATION FOR VIOLENCE

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DISSERTATION ABSTRACT

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"Might makes right," so the saying goes. What does this mean? What does it mean to say that humans live by this saying? How can this saying that is considered by almost all as an expression of injustice play a justificatory role practically universally and ubiquitously? How can it be repulsive and yet, nonetheless, attractive as an explanation of the ways of the world? Why its long history?

I offer a non-cynical explanation, one based on a re-interpretation of the saying and of both recognized and unrecognized related phenomena. This re-interpretation relies on the notion of a tacit justification for violence.

This non-cynical, re-interpretive explanation exposes the ambiguity of the saying and the consequential unwitting, self-deceptive, fallacious equivocations that the ambiguity makes possible under common conditions. While this explanation, furthermore, focuses on thinking factors—specifically on fallacious thinking, on humans' unwittingly and self-deceptively committing the fallacy of equivocation—it does not deny the possible role of non-thinking factors; it only tries to show that the thinking factors are significantly explanatory.

What is the ambiguity? "Might makes right" expresses two principles. The first principle is the common meaning, namely, that the dominance of the mightier over the

weaker is right. This principle is generally considered to be not a definition of justice but an expression of injustice. The second principle, which is almost universally shared in a tacit and unreflective way, is a principle of life, namely, that it is right for any living being to actualize its potential. This second principle is originary and thus primary, while the first principle is derivative and thus secondary. The use of all powers, natural or social, can be ultimately derived legitimately or illegitimately from this primary principle.

A common manifestation of "might makes right" is the unwitting abuse of power, an abuse that is not recognized as such by the so-called abuser, but that is rather suffered by this latter, who misapplies the second principle in situations that fall under the first principle, thereby unwittingly living by the saying, tacitly justifying abusive ways by it. This unwittingness calls for critical control and forgiveness.

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To all of us, who unwittingly abuse our powers.

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CHAPTER I

INTRODUCING A JUSTIFICATORY STORY[1]

[F]or the unexamined life is not worth living . . .
Socrates[2]

[N]o one does wrong willingly . . . all wrong-doing is involuntary.
Socrates[3]

In this essay, I examine, from the perspective of nonviolence, how the saying "Might makes right" can paradoxically be considered both a deflationary definition of justice, a brutal description of the ways of the world, and a principle of injustice, and yet, nonetheless, function as a justification for action, that is, as a way of showing the justice of an action. I offer an explanatory argument for this justificatory phenomenon.

In this chapter, I introduce the paradox of "Might makes right" and a resolution of it in outline form, both of which I situate in a long history of examination of this maxim. In section 1, I present the paradox. In section 2, I offer a resolution by outlining a non-

[1] I got the expression "justificatory story" from Richard Norman's "Practical Reasons and the Redundancy of Motives" (9); he seems to have gotten it from Julia Tanney's "Why Reasons May Not Be Causes."

[2] So Socrates declared for himself at his defense, as recounted in Plato's *Apology* (38a), as well as declares for all times and for all of us humans. Although, *pace* Socrates, an unexamined life might well be worth living since, for most, it is not just the *good* life but life *itself* that is inherently good, worthy in itself, yet an unexamined life unwittingly lived by the proposition that might makes right seems to lose too much dignity because it would unlikely be the kind of life almost all human beings would consciously choose to live or claim to live—as Socrates asks Crito: "is life worth living for us with that part of us corrupted that unjust actions harms and just action benefits?" (47e). So, I wish to claim, the following examination, however hypothetical, is worth doing.

[3] This view of Socrates seems to follow from his view that virtue is wisdom: the former is from the *Gorgias* (509e), the latter from the *Meno* (88d-89b) and the *Protagoras* (361b). He also states in the *Protagoras*: "I am pretty sure that none of the wise men thinks that any human being willingly makes a mistake or willingly does anything wrong or bad. They know very well that anyone who does anything wrong or bad does so involuntarily" (345e). In the *Laws*, Plato has the Socratic character, the Athenian stranger, state the same views (731c, 734b, 860d-861a). Even if this view of wrongdoing is not universally true, it seems, given the phenomenon of justification, generally true or, at least, sufficiently so that becoming aware that one is acting wrongly in certain kinds of situations is sufficient to stop one from acting that way or to motivate one to change one's acting accordingly.

cynical explanation. In section 3, I interpret the historical context of arguments for and against "Might makes right."

1. Wondering about Might and Right

> [T]he strong do what they have the power to do and the weak accept what they have to accept . . . it is a general and necessary law of nature to rule whatever one can.
>
> Thucydides[4]
>
> La raison du plus fort est toujours la meilleure.
>
> La Fontaine[5]

I think that we[6] humans[7] normally[8] live by the proposition that might makes right; I wonder why. I wonder how "Might makes right" (M→R) can play such a practically universal and ubiquitous justificatory role.

I begin here by assuming this phenomenon[9] and hence wonder how a saying that is interpreted as a principle of injustice can function as a justification for violence (JV)—

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[4] This declaration is from the Athenians' address to the Melians at Melos, an event that Thucydides exposes in book V of his *History of the Peloponnesian War*. I return often to this brutally honest encounter below.

[5] This epigraph is from La Fontaine's fable "Le loup et l'agneau"—a modern version of Aesop's "The Wolf and the Lamb." In both fables, the wolf's justification seems more like a pretext or an excuse for the violence that is to follow; nonetheless, both fables express a version of "Might makes right"—in its descriptive role of the ways of the world and thus, as I try to show below, in its tacitly justificatory role. The French term *raison* can mean justification or motive ("raison," *Petit robert* def. III, 2).

[6] I qualify the pronouns when it is appropriate; some ambiguity is okay because, for instance, the first person plural could refer to all humans or to a particular group, one's own group, one's own people—what matters is the use of the first person as calling for each one of us as an individual or as a member of a collective to reflect on the relation of might to right, particularly *our* might.

[7] By "humans" I am referring to humans who are old enough to act and to justify their actions and who do not have a psychological or neurological condition that prevents them from acting on the basis of a justification, etc.

[8] In using "normal" instead of "normative" I'm relying upon the ambiguity of the former term: it refers to the normative, but, additionally, it refers not only to the statistical but also to the natural. This latter ambiguity is significant in blurring the line between the naturally and the normatively natural, thereby bracketing, to some degree, the *physis-nomos* (nature-culture, natural-conventional, etc.) issue.

[9] The very phenomenon of M→R that I am trying to examine—namely, *that* M→R plays a significant justificatory role in human life—can ultimately best be demonstrated by the very explanation that I offer,

that is, as an account for the justice of an action. Furthermore, I wonder why M→R is both repulsive and attractive as well as why arguments in support of it have such persuasive force. Thus justifying violence is the perspective from which I would like to address the following paradoxical question: How is it that M→R can function as a JV—albeit almost exclusively tacitly—in spite of the almost universal acceptance of its expressing a principle not of justice, but of injustice, and hence of the apparent impossibility of its being a justification at all?

It seems that attempts by great thinkers[10] to refute the proposition that might makes right or views that are based on it, at best, have discredited M→R as the true nature of justice in the mind of almost everyone. Nonetheless, what these thinkers' attempts seem not to have achieved is the abolition of the justificatory role M→R plays tacitly in the mind of almost everyone, almost all the time. To almost everyone's satisfaction, thinkers have succeeded in showing that right is not the product of might, but paradoxically they have not eliminated the tacit justificatory role of M→R. I would like to argue for the best, non-cynical[11] explanation to this paradox.

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an explanation that tries to show *how* M→R plays such a justificatory role. Although this method might seem counterintuitive by being inverted in that it tries to show the existence of the phenomenon by explaining its function, my examining method redeems itself by revealing not only the possibility but also the probability of a mental phenomenon that is obviously and necessarily invisible and that thus can be shown only indirectly and probabilistically. My explanation functions as an indirect demonstration of the phenomenon in its very presentation of *how* it not only *functions* but also *originates*. In order to begin the examination, then, I treat the existence of this phenomenon as an assumption that is to be gradually revealed as plausible and probable by the very explanation of its function and thereby its source.

[10] Plato's Socrates, Leibniz, and Rousseau are amongst those who have explicitly attempted this refutation (more on this below).

[11] I examine below, primarily in ch. II, the nature of cynical vs. non-cynical explanations.

For example, how is it that one's nation's might makes right?[12] One of the principal instances of this role is the way M→R seems to function in the minds of citizens of democracies,[13] as a tacit justification for war. This is not an empirical claim based on scientific studies or on poll data:[14] if there is any kind of empirical aspect to this examination, then it is one that is merely based on observations of common examples of majorities of citizens' supporting and justifying their own nation's wars and conduct in wars, in ways that appear to be weak justifications or rationalizations, even cynical ones.[15] I wish to show how M→R can play the role of a non-cynical JV.[16] Another set of significant instances are those tacit might-makes-right justifications that seem to function in the minds of those who unwittingly abuse their powers. Given how widespread—because each person or group has some power—unwitting abuses of power are,

[12] Almost everyone accepts that "Might makes right" is not a principle of justice and may not even be a description of a kind of a state of nature, though some, referred to below, may see it in this light; almost everyone, nonetheless, is affected or influenced, to some degree, by its functioning as a tacit justification for violence, thereby unwittingly relying on it in order to justify their individual actions as well as the actions of their group or their nation. Here, preliminarily, I wish to point out that it is precisely because it functions tacitly as a justification for violence that people can both accept its being a principle of injustice and yet rely on it to justify violence for them and their clan. People are, at most, aware of the apparently legitimate functioning of a justification: it is this very process of legitimating what is illegitimate that I am trying to demonstrate.

[13] Formally, the U.S. regime is a republic, a mixed regime, but it is rarely referred to as such, instead it is popularly referred to it as a democracy.

[14] Indeed, as noted above, if my characterization and explanation of the phenomenon are correct, then no scientific studies or polls *could* be conducted to gather empirical data or evidence, anymore than one could empirically gather evidence for Marx's point that people living in capitalist societies are the victims of a false consciousness that is the result of bourgeois ideology, etc., or for Plato's point that we are all living in caves, etc., or yet for Kant's, that it is possible to examine transcendentally the conditions underlying appearances and empirical data. This is a method that, for some, represents *the* philosophical method, namely, the examination, exposition, and explanation of what makes possible or, at a minimum, is sufficient to cause some appearances that are in themselves far from being self-revealing, self-exposing, self-explaining—it is philosophical examination as, in part, the process of making the tacit explicit.

[15] No doubt, there are other factors in play: what I wish to argue for is that M→R is a sufficient justification, a sufficient condition for an explanation—a non-cynical explanation—of great majorities of citizens' supporting their nation's wars and conduct therein.

[16] See, e.g., John Keegan's *A History of Warfare* (8-9). I return to this point below, especially in ch. II, in the "Anthropodicy" section.

understanding how M→R tacitly justifies such abuses acquires existential significance for all, not solely for the so-called powerful.

Thus M→R functions as a JV even though it is interpreted as an expression of injustice and even though it is rarely offered explicitly as a JV. M→R is repulsively attractive. It is clear why it is repulsive. Why, however, is it attractive? How, furthermore, does this attraction help to explain M→R's significant and common role as a justification? What follows is a justificatory story.

2. Outlining a Non-Cynical Explanation[17]

M→R can function tacitly as a JV because the fundamental ambiguity of M→R is not normally recognized. The ambiguity of M→R is based on the fact that M→R means, at least, two principles that are closely related and yet have contrary senses with respect to justice.[18] Under the aegis of M→R, equivocal applications can justify actions that one would consider clearly unjustified or even unjustifiable under closer scrutiny and greater critical thinking were one to voice one's justifications, even solely to oneself. The two principles get conflated or confused unintentionally as one self-deceptively fallaciously equivocates and acts with the tacit justification of M→R.

What are the two principles?

The first principle (M→R1) is the more obvious and common sense of M→R, namely, that the actions of the mightier over the weaker are always right or just

[17] In this section, I present a mere outline of my explanation: below, I present the contexts of this explanation in sect. 3 of this chapter and in ch. II as well as a comprehensive development of it, with illustrations, primarily in ch. III.

[18] The equivocal thinking at work with M→R is not based primarily on lexical ambiguity or on syntactical ambiguity; rather, it is based on propositional ambiguity. This kind of ambiguity can lead to the misapplication of principles. Of course, ambiguity is not inherently bad, nor does it inevitably lead to bad consequences. I develop this point and examine propositional ambiguity below, primarily in ch. IV, in the "Fallacy Theory" section.

principally because of the formers' might relative to the latters' weakness. When one normally thinks of M→R, one unreflectively thinks of M→R1 first and foremost. Of course, this means that this principle is rarely taken by most as a principle of justice or offered as such; instead, it is taken as contrary to justice, as an expression of pure force, perhaps a brutal fact of reality, indeed as a dreadful indication of the absence of justice. This is the case, with qualifications, even among those for whom this principle seems sound—for example, Thucydides, Hobbes, and Spinoza, as well as some international-relations (IR) theorists, such as Hans Morgenthau or Kenneth Waltz, who see the state of interstate affairs as a self-help realm, as a Hobbesian state of nature.[19]

The second principle (M→R2) is not usually the sense intended by M→R or interpreted by people hearing it; nonetheless, it may reflect M→R's more fundamental sense: Having a certain ability or power to do x gives one, naturally or normally, not only the permission, but also the right to do x. M→R2 expresses a law of life:[20] living is actualizing potential;[21] doing so is obviously, naturally, normally, and tacitly right.

The existence and legitimacy of M→R2 can be illustrated by various, ubiquitous phenomena ranging from basic bodily movements to actions and behaviors sanctioned by merit or by qualifying abilities.[22] That, for instance, I can raise my arm means normally

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[19] I try to show in sect. 3 how these and other thinkers might be interpreted as advocating for M→R.

[20] Cf. Hobbes' and Spinoza's concept of the *conatus*—the striving power to be and to continue to be. In his *Ethics*, part III, Proposition 6, Spinoza characterizes it as follows: "Each thing, as far as it can by its own power, strives to persevere in its being" (75). Cf. Aristotle's concepts of *dynamis* (potentiality or power) and *energeia* (actualization or activity): see entries in F. E. Peters' *Greek Philosophical Terms*.

[21] I clarify in ch. V, my use of "actualizing" rather than "realizing" potential.

[22] In ch. III, I develop comprehensively the many ways in which one's thinking is easily confused and thereby equivocally slips from one meaning to the other, from M→R2 to M→R1. Here I just note that in a meritocracy, merit obviously obtains ruling power. Furthermore, in the West, merit has a historically long, close connection with justice: in his *Politics*, Aristotle, in book V, ch. 1, while acknowledging the disagreements regarding the criteria for merit, sums up this connection thus: "people agree that what is

or *prima facie*[23] that I am permitted to do so (unless exceptionally prohibited) and thus justified in doing so. That, for another instance, I can teach others philosophy means normally that I am permitted and have a right to do so—that is, my right is derived from my merit, which is itself based on my ability, and so on. In these kinds of cases, from powers one normally gets permissions and then from permissions one normally gets justifications and thereby rights to act.

Some might object that it is unlikely that one would justify one's raising one's arm by appealing to one's power to do so—in short, one does not likely see one's power as self-justifying.[24] In a preliminary reply, I would like to point out that M→R as a JV is not merely might as a JV: it is not solely the might that justifies but rather the might-that-makes-right that does so. It just happens that in many instances a might is taken to be by its mere possession as such a might-that-makes-right—that is, as a righteous-might—and thereby ends up functioning as a tacit JV.[25] M→R's ambiguity facilitates the confusion and the subsequent equivocation of power and permission. It is no coincidence, then, that "Might makes right" in its English rendition should reflect the saying's ambiguity through the ambiguous term "might"—a term that means, at least, both "can" and "may." This lexical ambiguity seems to be a surface manifestation of a deeper ambiguity,[26] one

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unqualifiedly just is what is according to merit" (1301b35). (More on this below, primarily in ch. III.) Qualifying abilities include natural as well as acquired talents, skills, etc.

[23] Cf. W. D. Ross' notion of *prima facie* duty in *The Right and The Good*, ch. II, "What Makes Right Acts Right?"

[24] As Jean-François Lyotard puts it in his *Postmodern Condition*: "It is one thing for an undertaking to be possible and another for it to be just" (36)—an obviously common point, thus the paradoxical issue. I examine this objection further in ch. III.

[25] I examine this phenomenon below, primarily in ch. II and in ch. III.

[26] As noted above, I return to and develop further this kind of ambiguity and its relation to the fallacy of equivocation in the "Fallacy Theory" section, in ch. IV.

based on the multiplicity of apparently relevant principles expressed by M→R, no matter what language it is rendered in, with this multiplicity making possible equivocations and thereby misapplications of principles.

Thus although M→R1 is the common sense of M→R, a sense expressing a principle of injustice that almost all reject, M→R2 expresses a principle of life both natural and normal that all accept because growing, developing, becoming, actualizing potential, using talents, exercising skills, undertaking activities based on merit, and so on, are naturally or normally justified unless exceptionally prohibited. No wonder M→R seems irrefutable.

Again, almost everyone openly rejects M→R (under its M→R1 guise) as a correct definition of justice or as a proper description of reality, and almost no one appeals, or would appeal, to M→R as a JV—hence the paradox. M→R's ambiguity begins to show a way to resolve the paradox by beginning to explain how M→R can function as a JV. M→R can play a justificatory role by functioning tacitly as a JV because M→R2 captures two aspects of reality: first, the natural aspect of the reality of living organisms—namely, a fundamental principle of life in the sense of living as actualizing potential—and second, the normal aspect of the social reality of beings living in normalized communities in which certain kinds of powers such as merit-based ones are assumed self-justifying because they are taken as righteous. It is M→R2 and not M→R1 that is the attractive side of M→R. This analysis helps to explain M→R's paradoxical nature. It is not, therefore, the case that M→R is both repulsive and attractive in the same sense and at the same time; rather, while M→R1 is repulsive, M→R2 is attractive.

Furthermore, beliefs about or views on reality, in addition to their explanatory role, can play a justificatory role, but they can do so only tacitly.[27] Thus whatever else M→R may be doing, it can be seen as functioning as a tacit JV. In this way, the persuasive dregs of views on M→R are powerfully persistent because of their apparent references to reality, their allusions to a fundamental principle of natural and normal life.[28] What is alluded to is not merely the strange, repulsive phenomenon of the "justice" of the strong overpowering the weak but rather the obvious, attractive phenomenon of the justice of every living being doing what it is able to do in order to be, further extended in the human realm to the phenomenon of the justice of one doing what one is able to do socially, institutionally, legally, and so on.

This deflationary[29] explanation regarding the universality and ubiquity of M→R can be summed up as follows: M→R can function as a tacit JV because we humans by not recognizing its ambiguity often commit the fallacy of equivocation and thereby misapply a principle. One unintentionally slips in one's tacit reasoning from one meaning of M→R to its other, from "it is right that one actualizes one's potential" (M→R2) to "it is right that the strong prevail" (M→R1). One does not intend to live by M→R1: one,

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[27] I examine this point below, beginning in ch. II.

[28] If I'm correct about M→R's ambiguity, then the notorious *will to power* (as a kind of M→R1) becomes merely the *will to live* (an expression of M→R2)—no wonder the former expression is so persuasive, especially to students of philosophy, and more particularly to new students hearing Nietzsche's views for the first time, and of course the same persuasive force obtains with the views of Hobbes, Spinoza, and Machiavelli as well as with those of so-called realists (including international-relations (IR) realists and neo-realists).

[29] My explanation's deflation of deflating views on justice or on life—e.g., Thasymachus's and Callicles's deflationary definitions of justice as solely the advantage of the stronger or the common interpretations of Nietzsche's will to power—is one of the benefits of this examination. From the perspective of living, such deflating views are themselves deflated because they are shown to be relying on the persuasive force of the legitimacy of acts and behaviors that are part of living beings' simply living—thus, e.g., it provides a way of interpreting Nietzsche's "life itself is the will to power" (37) as a tautology, namely, that life is the will to live or that living is living. Cf. Alphonso Lingis' "Will to Power."

nonetheless, can end up doing so by unwittingly equivocating and thereby deceiving oneself as one acts tacitly justified by this very principle of injustice. Before proceeding further,[30] however, it is necessary to consider the examinational context.[31]

3. Historically Situating

> *Power irresistible justifies all actions, really and properly*, in whomsoever it be found. . .
>
> Hobbes[32]

> [E]very individual has sovereign right to do all that he can; in other words, the rights of an individual extend to the utmost limits of his power. . . . my natural right is . . . co-extensive with my power.
>
> Spinoza[33]

> The weakest are always wrong in matters of state.
>
> Richelieu[34]

In one form or another, the proposition that it is might that makes right has a long history. Indeed, the issue of the proper relation between might and right, power and

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[30] In ch. III, I begin to develop comprehensively the outline presented in sect. 2 of this chapter.

[31] In addition to the historical context in sect 3 of this chapter, I present the perspectival, assumptive, and conceptual context in ch. II.

[32] Quoted in Edwin Curley's "The State of Nature and Its Law in Hobbes and Spinoza" (100): I present below Curley's views on Hobbes and Spinoza regarding M→R.

[33] As I try to show below, Spinoza can be interpreted as advocating for M→R as the reality of the state of nature. This passage is from his *Theologico-Political Treatise*, ch. XVI, pp. 200-03.

[34] Quoted in Miller's "Hugo Grotius" entry in the *Stanford Encyclopedia of Philosophy*: according to Miller, "Grotius was upset when the powerful French Cardinal Richelieu told him" this principle (6-7). Thus La Fontaine's fable did not have to refer to phenomena far back in space or time, such as ancient Greece, in order to find its actualization. Leibniz too, like La Fontaine yet in his own way, in his ironic *Mars Christianissimus* critiques Richelieu's views on kingly prerogative and on M→R, views that were then followed by Louis XIV, by ridiculing the "ultimate reasons of kings" and of the King's will needing no JV since M→R (122). In his *Spirit of the Laws*, Montesquieu also refers to Richelieu (Richter 129, 149) and quotes Louis XIV, or at least, attributes these famous words to him as many others have: "The State, it is I" (qtd. in Richter 165 n. 13).

justice, seems to be a perennial one. I focus primarily on part of its history in the West.[35] Many are those who have tried to expose M→R either to explain its inevitability or to undermine its legitimacy—to offer support either for or against it. In 3.1, I present some of those who have tried to argue for M→R; in 3.2, I present some of those who tried to refute it;[36] finally, in 3.3, I situate this examination.

3.1. Advocating for M→R

Those arguing that might makes right basically try to show that M→R is either the real definition of justice or the most accurate description of the ways of the world, whether natural or normal. I begin here with advocates in the ancient world.

Thucydides, in his *History of the Peloponnesian War*, recounts and exposes the notorious dialogue between the Athenians and the Melians, a dialogue in which the Athenians explicitly appeal to M→R to justify their military plan against the Melians. Here are excerpts from the Athenians' address:

> Then we on our side will use no fine phrases saying, for example, that we have a right to our empire because we defeated the Persians, or that we have come against you now because of the injuries you have done us—a great mass of words that nobody would believe. . . . Instead we recommend that you should try to get what it is possible for you to get, taking into consideration what we both really do think; since you know as well as we do that, when these matters are discussed by practical people, the standard of justice depends on the equality of power to compel and that in fact the strong do what they have the power to do and the weak accept what they have to accept. (401-02)
>
> So far as the favor of the gods is concerned, we think we have as much right to that as you have. Our aims and our actions are perfectly consistent with the beliefs men hold about the gods and the principles which govern their own conduct. Our opinion of the gods and our knowledge of men lead us to conclude that it is a

[35] An example from non-Western traditions is the Legalists School in China that advocated for M→R. Han Fei was one of its scholars (280 - 233 B.C.E); see McGreal (44-49) or E. V. Walter's "Power and Violence" (357-58).

[36] I present further historical examples and examinations of M→R below, especially in ch. II, in which I examine the historical context of justifications more generally.

> general and necessary law of nature to rule whatever one can. This is not a law we made ourselves, nor were we the first to act upon it when it was made. We found it already in existence, and we shall leave it to exist for ever among those who come after us. We are merely acting in accordance with it, and we know that you or anybody else with the same power as ours would be acting in precisely the same way. And therefore, so far as the gods are concerned, we see no good reason why we should fear to be at a disadvantage. (404-05)

This is the longest, clearest, most explicit expression of M→R that I have come across.[37] Some international-relations (IR) theorists consider Thucydides' exposition as still the best and the most accurate interpretation of the international realm.[38] The sophist, Gorgias, in his *Encomium to Helen*, seems to refer to a version of M→R:

> [T]he stronger cannot be hindered by the weaker. (131)
>
> [B]y nature the stronger force is not prevented by the weaker, but the weaker is ruled and driven by the stronger; the stronger leads, the weaker follows. (285)

Pindar is famous for the following saying: "Custom is king of all." This saying, which was interpreted as meaning that there is no justice independent of customs or mores, which are themselves established by those in power, is quoted in Herodotus' *History* (228); Plato refers to Pindar[39] and this saying in his *Gorgias* (484b)[40] and in his *Laws*

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[37] For an insightful interpretation of this dialogue as well as a profound analysis of power from a supernatural, Christian perspective, see Simone Weil's *Waiting for God* pp. 139-57. Furthermore, cf. Thucydides' "For men in general it is always just as natural to take control when there is no resistance as to stand out against aggression" (*Ibid* 300). This seems to be yet another expression of M→R as a JV, here declared to be on a par with self-defense as a JV.

[38] In his entry "Political Realism in International Relations" in the *Stanford Encyclopedia of Philosophy*, W. Julian Korab-Karpowicz sums up this point thus: "The set of premises concerning state actors, egoism, anarchy, power, security, and morality that define the realist tradition are all present in Thucydides" (3). Alexander Kemos' essay title by itself makes this point plainly: "The influence of Thucydides in the Modern World: the Father of Political Realism Plays a Key Role in Current Balance of Power Theories." David A. Welch's "Why International Relations Theorists Should Stop Reading Thucydides" also seems to acknowledge Thucydides' essential influence on IR theorists and theories.

[39] See, e.g., Patrick Miller's "Pindar in Plato."

[40] While exposing his views that M→R, Socrates' interlocutor, Callicles, appeals to Pindar thus: "Pindar seems to me to express the same thought as mine in the poem in which he speaks of 'Law, the king of all,

(690b-c,[41] 714e,[42] 890a[43]), characterizing him as an advocate of M→R. And Antiphon echoes Pindar in his own definition of justice:

> Justice, then, is not to transgress that which is the law of the city in which one is a citizen. (Freeman 147)

Plato's Thrasymachus, in the *Republic*, and his Callicles, in the *Gorgias*, both seem to offer deflationary definitions of justice as they argue for justice as the advantage of the stronger, a definition that can interpreted as justice is nothing more or other than the product of might.[44] Carneades was the leader of Plato's Academy during its skeptical phase.[45] He is characterized by Cicero, Grotius, and Lieibiz as an advocate of M→R.[46]

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men and gods alike,' and goes on to say that this law 'carries things off with a high hand, making might to be right.'"

[41] Exposing the sources of power, the Athenian stranger, the Socratic figure in the *Laws*, refers to M→R—"the stronger should rule and the weaker should obey"—and to Pindar—"[a claim] which prevails throughout the animal kingdom—by decree of nature, as Pindar of Thebes once remarked. . . . In spite of you, my clever Pindar, what I'd call the 'decree of nature' is in fact this spontaneous and willing acceptance of the rule of law; I'm certainly not prepared to say it's *un*antural."

[42] Again talking about M→R, the Athenian stranger says, "Pindar turned it into a law of nature—which meant that he 'justified the use of force extreme' to quote his exact words."

[43] Appearing to include Pindar in his broad reference to so-called experts, the Athenian stranger sums it up as follows: "All this, my friends, is the theme of experts—as our young people regard them—who in their prose and poetry maintain that anything one can get away with by force is absolutely justified."

[44] Is M→R the proper interpretation of these kinds of definitions of justice as the advantage of the stronger? See below for some interpreters supporting this reading and others offering nuances in various views on M→R, nuances that further reveal the ambiguity of the saying; I focus here on the broad and common views on M→R—i.e., its fist sense—and so focus on Thrasymachus' and Callicles' first offerings. For a somewhat dated (1979) summary of the debate over interpretations of Thrasymachus' views, see Shmuel Harlap's "Thrasymachus' Justice." Cf. Walter Hamilton's point that the Melian dialogue is the best illustration of Callicles' philosophy (11) and that Thrasymachus' "thesis . . . is simply Callicles under another name" (15). I examine the relation between this definition of justice and the concept of self-interest in ch. V.

[45] See, e.g., Luke Timothy Johnson's *Practical Philosophy: The Greco-Roman Moralists*, or the "Carneades" entry in the *Stanford Encyclopedia of Philosophy* by James Allen.

[46] See. e.g., Cicero's *On the Commonwealth* pp. 24, 26-31, 53, 200-02, 208, 213, 219-20; Wilson ("Grotius" 207, 212) as well as Thomas Mautner's "Grotius and the Skeptics" p. 586. For Leibniz' reference, see the parts of Leibniz below in the "Refuting M→R" section.

He seems to be one of those long-established advocates of M→R whom we hear others speak of yet don't hear directly on M→R.

Skipping over a few centuries, including the medieval voluntarists whose views on M→R are clearly restricted to God,[47] I now turn to the early part of the modern period. Hobbes in *Leviathan* first claims that in the state of nature there is no justice or injustice:

> To this warre of every man against every man, this also is consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no common power, there is no Law: where no Law, no injustice. Force, and Fraud, are in warre the two Cardinall vertues. Justice, and Injustice are none of the Faculties neither of the Body, nor Mind. If they were, they might be in a man that were alone in the world, as well as his Senses, and Passions. They are Qualities, that relate to men in Society, not in Solitude. It is consequent also to the same condition, the there be no Propriety, no Dominion, no *Mine* and *Thine* distinct; but onely that to be every mans that he can get; and for so long, as he can keep it. (188)

Hobbes then goes on to define justice deflationarily and indirectly by first defining injustice: "And the definition of INJUSTICE, is no other than *the not performance of Covenant*. And whatsoever is not Unjust, is *Just*" (202).[48] That in translating Thucydides'

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[47] Of course, voluntarism was at times extended to human power as in the case of divinely ordained monarchy. A significant example is Bossuet's extensions of God's M→R to kings by an appeal to the principle of divine-right absolute monarchy (52ff, 263). In his introduction to Bossuet's *Politics Drawn from the Very Words of Holy Scripture*, Patrick Riley characterizes Bossuet's views as "the most extraordinary defense of divine-right absolute monarchy in the whole of French political thought" (xv). Cf. Aquinas' "Prov. 8:15 says: 'Kings rule through me, and the framers of laws decree justice'" (*On Law* 64, 68), one of the source of the divine right of monarchs, but also perhaps a source for Hobbesian reduction of justice to legality; if not a problem in a religious world with God's justice in the background, in a secular world, morality seems to be reduced to legality. Cf. C. H. McIlwain's "The real question is whether the king's act *ipso facto* makes any action legally right" ("Sovereignty Again" 266). (More on voluntarism below.)

[48] Is Hobbes notion of justice then merely one of prudence? For Hobbes, the right of M→R does not seem to be the same kind of right as that of morality. The former begins and ends in prudence: "it is unjust" means "it is imprudent." The rationality is purely instrumental. The consistency of M→R calls for right and justice to be based solely on prudence and the best means to achieve self-preservation or one's advantage. Justice in the moral sense is not produced by might: only prudential rules and principles are so produced, so that what Hobbes calls justice seems to be what is called prudence by some, such as those who believe in the independence from might of a justice that regulates moral conduct and that does not merely guide self-

History of the Peloponnesian War, Hobbes was influenced by the former's accounts seems quite plausible.

Spinoza, in his *Theologico-Political Treatise*, apparently following Hobbes, seems to advocate for some version of M→R as part of a description and an explanation of nature:

> For it is certain that nature, taken in the abstract, has sovereign right to do anything she can; in other words, her right is co-extensive with her power. The power of nature is the power of God, which has sovereign right over all things; and, inasmuch as the power of nature is simply the aggregate of the powers of all her individual components, it follows that every individual has sovereign right to do all that he can; in other words, the rights of an individual extend to the utmost limits of his power as it has been conditioned. (200)[49]

Spinoza then goes on to refer to the right to do anything that can lead to self-preservation, and in case we might misread him the first time, he repeats: "inasmuch as my natural right is, as I have shown, co-extensive with my power . . . I have the natural right to do" what I need to survive, including, in this case, lying to a robber (203) since we have "by nature a right to act deceitfully" given that "as we have shown . . . the natural right of the individual is only limited by his power" (204). Spinoza does not seem to change this view since in his last, unfinished work, namely, *A Political Treatise*, he returns to M→R:

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preservation. Thus for Hobbes, the right that might makes seem to be a prudential kind of right, an instrumental kind. Self-preservation or security is the end; the justice constructed through the social contract merely the means. Thus being unjust through not abiding by the voluntary act of limiting one's right to everything does not seem to be morally wrong in a sense of morality that is independent of might or contract: *being unjust* here means simply *being imprudent* and *irrational* since one does not act as one ought to in order to achieve one's end.

[49] Cf. Clausewitz' "no moral force without the conception of State and law" (*On War* 101); this seems to be another expression of the Hobbesian and Spinozist perspective.

> If two come together and unite their strength, they have jointly more power, and consequently more right over nature than both separately, and the more there are that have joined in alliance, the more right they all collectively possess. (296)[50]

Yet, as a Hobbesian, Spinoza recognizes that this is an untenable state, this state of nature, in which

> so long as the natural right of man is determined by the power of every individual, and belongs to everyone, so long it is a nonentity, existing in opinion rather than fact, as there is no assurance of making it good. And it is certain that the greater cause of fear every individual has, the less power, and consequently the less right, he possesses. (296)

Thus, following Hobbes, Spinoza acknowledges that although M→R in the state of nature obtains, there seems to be good reasons for avoiding this condition if possible. The question is then whether it is possible to avoid it absolutely and universally, always, everywhere, and with everyone.[51]

Spinoza scholar Edwin Curley, translator of Spinoza's *Ethics*, brings Machiavelli, Hobbes, and Spinoza in dialogue on M→R in "Kissinger, Spinoza, and Genghis Khan." Curley characterizes Spinoza as "an eccentric Hobbesian" (315, 317), a "revisionist Hobbesian" (318), and "a Machiavellian" (315, 327-33): "Spinoza is arguably the most Machiavellian of the great modern political philosophers" (315). In "The State of Nature and Its Laws in Hobbes and Spinoza" Curley also characterizes, with proper qualifications, both Hobbes and Spinoza as advocates of M→R:

> But does Hobbes not hold, with Spinoza, that might makes right? Certainly some people have said so, and with good reasons. But the textual situation is complex and others have challenged this reading of Hobbes. Hobbes does say, in *The Elements of Law*, that in the state of nature *'irresistible* might ... is right' (I, xiv, 13, my emphasis). (99)

[50] Cf. the M→R of a democracy.

[51] Are Hobbes and Spinoza equivocating, slipping from M→R2 to M→R1?

> So only God can be the beneficiary of the equation of irresistible might with right. This is clearest in 'Of Liberty and Necessity': *'Power irresistible justifies all actions, really and properly*, in whomsoever it be found'.... The corresponding passage in *Leviathan* [xxxi 5] is not so explicit in limiting the doctrine of might makes right to God. (100)
>
> Unpleasant though his conclusion may sound, Spinoza has a strong argument for the claim that in the state of nature power is the measure of right. (114)

Another Spinoza scholar, Stanley Rosen, forty-two years after writing his dissertation on Spinoza and having written on Spinoza's political views,[52] seems, in his review of Steven Smith's *Spinoza, Liberalism, and the Questions of Jewish Identity*, to concur with Curley by reading Spinoza's teachings as coming "very close to the advocacy of the doctrine of might makes right" (749). Many more scholars stressing the similarities of views on M→R, views separated in time but not in essence, bring together these various advocates and relate their views.[53]

Nowadays,[54] international relations (IR) realists and neo-realists—seeing the international state of affairs as a Hobbesian state of nature or a self-help realm—almost

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[52] An essential example is his "Benedict Spinoza" in *History of Political Philosophy*, edited by Leo Strauss and Joseph Cropsey.

[53] In "Morality as Coercion or Persuasion" M. C. Otto, siding with Thrasymachus, points to the nuanced differences between, on the one hand, Thrasymachus' views on M→R, and, on the other hand, Callicles', Carlyle's, and Nietzsche's. In "Sovereignty Again" C. H. McIlwain points to Spinoza as the only modern to hold the view that might is right. In "The Virtues of Thrasymachus" Chappell refers to Nietzsche's definition of justice as the device of the weak (16). In "The Refutation of Callicles in Plato's 'Gorgias'" George Klosko refers to Nietzsche's and Machiavelli's M→R. In his introduction to his translation of Plato's *Gorgias*, Walter Hamilton refers to Nietzsche's and Carlyle's views on M→R (10, 17). Bruno Latour, in "Socrates' and Callicles' Settlement—or the Invention of the Impossible Body Politic" refers to Machiavelli's and Hobbes' M→R. In *Thucydides: On Justice, Power, and Human Nature* Paul Woodruff connects Machiavelli and Hobbes to the classical tradition of M→R. In "The Abolition of Slavery and the End of International War" James Lee Ray puts under the category of advocates of M→R Machiavelli, Hobbes, Spinoza, Hume (interestingly enough), Nietzsche, and, as a segue to my next group of advocates, the international relations theorist Hans Morgenthau.

[54] Early in the last century, Carl Schmitt in his *Constitutional Theory*, refers to "misuse of state power" (91, 93, 99), even though he, following Hobbes and Spinoza on self-preservation and thus here on state-preservation, has no difficulties justifying some states actions that he argues require no justifications: "The decision requires no justification via an ethical or juristic norm. Instead, it makes sense in terms of political existence" (136)—this kind of M→R application, one that remains silent is, though perhaps rational in

exclusively[55] refer to M→R in its original and normal form.[56] Hobbes himself thought of the international realm, all anachronisms regarding the later notion of nation state accounted for, as a real instance of the state of nature, and thus addressing a potential objection to the very possibility of a continual condition of war, points out the following:

> But though there had never been any time, wherein particular men were in a condition of warre one against another; yet in all times, Kings, and Persons of Soveraigne authority, because of their Independency, are in continuall jealousies, and in the state and posture of Gladiators; having their weapons pointing, and their eyes fixed on one another; that is, their Forts, Garrisons, and Guns upon the Frontiers of their Kingdomes; and continuall Spyes upon their neighbours; which is a posture of War. (187-88)

And although Locke has a different notion of the state of nature, he too, in addressing a similar potential objection, shows how he sees the international realm in a somewhat Hobbesian light:

> It is often asked as a mighty objection, *where are*, or ever were there any *men in such a state of nature*? To which it may suffice as an answer at present, that since all princes and rulers of *independent* governments all through the world, are in a state nature, it is plain the world never was, nor will ever be, without numbers of men in that state. (13)[57]

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some instrumental and amoral way, so close to the kind I am concerned with that it calls for closer examination. Cf. Schmitt's "Sovereign is he who decides on the exception" (*Political Theology* 5), "the strong state is the sole origin of law" (*Constitutional Theory* 14), and "Political being precedes constitution making" (*Ibid* 102).

[55] As a school of thought, the IR realist/neo-realist school seems to be the sole remaining school advocating for M→R. There are, no doubt, individual advocates, but this IR school seems to offer the sole remaining systematic advocacy. Interestingly, in a kind of a throwback perspective, Sharon Korman, in *Right of Conquest: The Acquisition of Territory by Force in International Law and Practice*, examines this right of conquest, in such forms as trial by battle, trial by conquest (11), and tries to make a case, throughout her book, for its legitimacy, its effectiveness, and even its efficiency at times, thereby making it possible to call upon this variation of M→R as a JV.

[56] In this section's epigraph, Richelieu seems to be prefiguring the views of the IR realists and neo-realists.

[57] That was then: how about now? In "The Abolition of Slavery and the End of International War" James Lee Ray presents a good account of IR realists, including Morgenthau. who hold the view that the international realm is a Hobbesian state of nature, a realm of "self-help" (438). Catherine Lu's entry "World Government" in the *Stanford Encyclopedia of Philosophy* refers to the realists' and the neorealists' shared

3.2. Refuting M→R

Aside from those warning of the danger of M→R,[58] those refuting M→R basically try to show that the advocates' reasoning—whether it is defending a deflationary definition of justice or supporting an explanatory description of the ways of the world—is flawed by being either partially absurd or clearly self-contradictory.[59]

Thus, in Plato's *Republic*, book I, Thrasymachus' silence,[60] after he offers his views on justice as nothing but the advantage of the stronger, may have been most appropriate. Perhaps he should not have spoken at all: one might well live consistently by M→R, but one cannot consistently justify one's actions by M→R because one's appeal to M→R self-contradictorily appeals simultaneously to a justice that is independent of

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view that the international order is a Hobbesian state of nature. In his "Sovereignty" entry at the same site, Dan Philpott refers to the anarchical international system and sovereignty as M→R, referencing Bodin's views on kingly prerogative. In *Thucydides: On Justice, Power, and Human Nature* Woodruf contrasts *realpolitik* to justice (xxxiii). In "Might Makes Right or Right Makes Might? Two Systematic Democratic Peace Tales" Ewan Harrison and Sara Mitchell analyze views on M→R in the IR tradition. In his "Political Realism in International Relations" entry in the *Stanford Encyclopedia of Philosophy*, Korab-Karpowicz points to the priority of self-interest over morality and to M→R as obtaining for realists in the international arena (3-4). In "The Evil of Politics and the Ethics of Evil" Morgenthau refers to Machiavelli and Hobbes as regards M→R and "reason of state" (4). In "Force, Order, and Justice" Kenneth Waltz also refers to reason of state as still appealed to as a JV, and in "The Origins of War in Neorealist Theory" he characterizes the essential structure of the international system as anarchy (618) and as a "self-help" realm (624). From the liberal tradition opposing the realists and neo-realists' views, Joseph Nye, in "Keeping Realism Relevant", writes this: "Realism will remain a basic framework" at least in the short term, though it might become irrelevant if not revised to consider soft power (167). (For Nye's concept of soft power as well as smart power, see, e.g., "Testing Obama's Foreign Policy" and "The Decline of America's Soft Power: Why Washington Should Worry.") Of course, even in its soft form, power is power as far as this examination is concerned since even soft power can be abused and thus be relevant to M→R as a tacit JV.

[58] I note Hesiod's warning above. Euripides, in his *Women of Troy*, seems to allude to the Melians' destruction (17), apparently echoing Thucydides' notorious Melian dialogue.

[59] It seems that all refutations of deflations of justice in particular or of virtues in general rely on showing that the reasoning that attempts to deflate virtues always already presupposes virtues. This seems to be Plato's Socrates' primary strategy. I revisit and utilize this strategy in ch. II when I examine the insufficiency of cynical explanations.

[60] There seems to be an enlightening etymological relation between "silence" and "absurdity": e.g., an absurd argument can mean an unsound argument—"absurd" from *ab- surdus* meaning deaf or stupid (*Merriam-Webster's*). I return to the issue of absurdity regarding M→R in ch. V.

might.[61] Yet given the context—namely, a discussion on the nature of justice—Thrasymachus' offer of a definition of justice is not untimely, even if his example seems to undermine his definition, as it seems to be an attempt at justifying rather than simply describing the actions of a powerful leader.[62] Nonetheless, Socrates' attempt at refuting Thrasymachus seems to succeed at only silencing him and not necessarily convincing him.[63] Indeed, some of the others, particularly Glaucon, are not satisfied with Socrates' refutation, a dissatisfaction that leads Socrates to develop and offer his own formal definition of justice in the next nine books.[64] Socrates' refutation of M→R and definition of justice in these nine books, in the whole of the *Republic*, as well as in the *Gorgias*—in which Socrates attempts to refute or undermine Callicles' version of M→R—do not seem to have been successful, if by success, one understands that the point has been settled—that even if the correct definition of justice still needs to be established, at least its M→R version has been refuted. Given the many subsequent attempts to refute M→R, it would seem that M→R survived Socrates' refutations.[65] There have been some who have

[61] I develop this point below, primarily in ch. II.

[62] Thrasymachus' account seems to reveal virtues that he holds that seem to be independent of might—e.g., that a ruler *qua* ruler does not make ruling mistakes. This presupposition of virtue seems to undermine his deflationary take on them—a presupposition that Socrates exploits.

[63] Even Allan Bloom, an apparent supporter of Socrates, argues, in his interpretive essay on the *Republic*, that Socrates does not refute Thrasymachus, but only silences him. In her entry "Callicles and Thrasymachus" in the *Stanford Encyclopedia of Philosophy*, Rachel Barney argues that both Thrasymachus' and Callicles' "challenges [were] outrunning [Socrates'] ability to refute them (17)—(an interesting perspective on M→R—i.e., if might, given its broad sense of ability including skill or talent (see sect. 2), is taken as the ability to refute, then does the inability to do so make one appear to be *not* right?).

[64] Of course books II-X attempt to define justice and not merely to refute Thrasymachus' definition; the elenchus is only part of the text.

[65] Of course, the same could be said regarding many views from sophists or pre-Socratics that Socrates tries to refute and fails to do so definitively: what interests me is that the refutation of M→R is persuasive in the sense that it seems that few, indeed very few, would define justice as M→R or would appeal to M→R as a JV—apparently, embarrassed or ashamed of doing so—while, nonetheless, unwittingly living by it. In

challenged M→R explicitly or implicitly, without offering a comprehensive refutation of it.[66] I skip now over a few generations of thinkers to one who explicitly and ubiquitously attempted to refute M→R—namely, Gottfried Wilhelm Leibniz.

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contrast, many, for instance, would openly hold the view of relativism in other areas, even though this relativism was also the target of Socrates' elenchus.

[66] Aristotle in book I, ch. 6 of the *Politics*, in the section on slavery (1255a5-20), presents and dismisses M→R in a few lines, with *might* taken as brute force (M→R1), but not with *might* taken as virtue, as *arete* meaning excellence (Peters) (M→R2). In ch. 12, discussing the relation between the sexes, he advocates for M→R when *might* is taken as natural fitness to rule (M→R2); in book II, ch. 11, he presents the same view but now regarding the aristocrats as the ones ideally *best* fit to rule, as the *aristoi*, leading him at the conclusion of book III to his version of the philosopher king as *the best* fit to rule, as the *aristos*: these cases of fitness can be interpreted as cases of the misapplication of M→R2. (For an example of an examination of the ambiguity of "superior" or mightier, an ambiguity that is at the heart of the two senses of M→R, see John King-Farlow and J.M. Rothstein's "Paradigm Cases and the Injustice to Thrasymachus" (20-21). For a similar examination regarding the ambiguity of might in Callicles' account of justice, see Latour's “Socrates’ and Callicles’ Settlement." These various interpretations of might reveal the power of the more fundamental sense of M→R, namely, the second sense.) Ultimately, Aristotle, like Plato's Socrates—however complex their views are regarding the meaning of might—rejects M→R1. In his introduction to *Selections from Cicero* De Re Publica, Poyser explains that Cicero sets up the advocate for M→R as an *advocatis diaboli*, as a devil's advocate (14); in his *City of God*, Augustine, himself clearly rejecting M→R, referring to advocates as "misguided thinkers," refers to Cicero as a refuter of M→R (882) (see also Phillip Cary's *Augustine: Philosopher and Saint* "Lecture 12: The City of God); in their introduction to Cicero's *On the Commonwealth*, George Holland Sabine and Stanley Barney Smith present Cicero as a would-be refuter of M→R (32). Maimonides, in part III, ch. 27 of his *Guide of the Perplexed*, refers to the lack of permission for one to act "to the limits of [one's] power" (*Ethical* 139). Aquinas seeing tyranny as M→R, *contra* M→R and echoing Thrasymachus' and Callicles' definitions of justice, refers to the ruler's responsibility to act for "the good of the people": "Therefore, if there be an unjust regime in the hands of only one person who seeks from the regime his own advantage, not the good of people subject to him, we call such a ruler a tyrant, a name derived from strength, namely, in that he crushes by his power and does not rule by justice. And so also the ancients called all powerful persons tyrants" (*On Law* 206); he then goes on to refer to other tyrannical regimes, including M→R democracies. Meister Eckhart's enigmatically seems to offer a challenge to M→R: "The just have no will at all" (179)—in other words, if M→R is the primacy of the will regarding justice, then the nil will re-establishes the primacy of justice. The view of evil as nil goes back to very early thoughts (at least as far back as Augustine (see, e.g., Cary's *Augustine* "Lecture 8: Evil, Free Will, Original Sin & Predestination" or Charles Mathewes' *Why Evil Exists* "Lecture 9: Creation, Evil, and the Fall—Augustine")); in *The Consolation of Philosophy* Boethius' theodicies (133, 137, 141) raise an interesting question: If evil is nil (112, 113, 122) and evil doing is not a sign of power, i.e., not a sign of might (122, 123, 127, 129), then does this mean that indeed M→R in some more fundamental way—perhaps as M→R2? In *The Sileni of Alcibiades* Erasmus exposes *real* power: "Goodness, wisdom, and power are the three most important qualities a ruler should have, and through them he represents God, the only true king. . . . For power, if it is not combined with goodness and wisdom, is not power, but tyranny" (178). In *Troilus and Cressida* Shakespeare warns, "Force should be right; or rather, right and wrong— / Between whose endless jar justice resides— / Should lose their name, and so should justice too. / Then everything includes itself in power, / Power into will, will into appetite; / And appetite, a universal wolf, / So doubly seconded with will and power, / Must make perforce a universal prey, / And last eat up himself" (1.3). Is this a reference to Aesop's wolf? It prefigures La Fontaine's.

Leibniz dedicates much of his examinations of political theory in attempts at refuting and showing the absurdity of M→R.[67] In *Meditation on the Common Concept of Justice* Leibniz attempts a *reductio ad absurdum* by showing that if M→R is correct, it would mean the impossibility of unjust laws (45), and another *reductio* by math and eternal truths as well as by his principle of the identity of indiscernibles precisely because it is not possible to have an unjust right, but it is possible to have an unjust law—that is, 'right and not right' is impossible, but 'not right and law' is possible (49-50). In *Opinions on the Principles of Pufendorf* Leibniz attempts another version of his *reductio*—it would mean no unjust act are possible by the powerful (70)—and also critiques voluntarism (71). In *Ceasarinus Fürstenerius* he critiques Hobbes on M→R (118-19). In *Mars Christianissimus* he ironically compares Thrasymachus' M→R and Louis XIV's kingly prerogative as a legitimate JV (122-26) and also refers to Richelieu's "ultimate reasons of kings" as a JV (122).[68] In *Codex Iuris Gentium* he critiques Hobbes again (166), along with Carneades (171), and attempts another *reductio* of M→R by acknowledging that what it really means is that "the most powerful do not respect tribunals" (183). In his *Allegiance Due to Sovereign Powers* he renews his attack on Hobbes and Hobbesian M→R (202, 205, 206, 209, 213), relates M→R to the problem of evil (207), and refers again to Thrasymachus (207). And, finally, in his *Abbé Bucquoi: Divinity and Sovereignty* he continues his attempts *pace* Hobbes and Descartes and *contra* voluntarism (228). Do these attempts at refuting M→R reveal that, like Glaucon and others, Leibniz,

[67] In *Leibniz: Political Writings*, the editor, Patrick Riley, points this out repeatedly in his introduction (3,4,5, 6, 7, 25, 26, 28, 35, 38).

[68] Richelieu not only accepted M→R as a natural way, as the epigraph shows, but also advocated M→R as a JV for his monarch's violent acts. As noted above, it might have been in response to Richelieu's still recent advocacy that La Fontaine rendered his French version of Aesop fable, declaring, what French school children recite, hear over and over again, and then inevitably remember: "La raison du plus fort est toujours la meilleure." "La raison du plus fort est toujours la meilleure." And on and on and on . . .

too, as much as he might have wished to, was ultimately unconvinced by Socrates' refutations?

Voltaire speaking on the right of conquest as a JV, a variation on the theme of M→R as a JV,[69] puts it frankly: William the Conqueror was nothing but "a bastard from Normandy" (151) and his Normans nothing but "thieves as conquerors" (158). During the same period, Rousseau in his *Social Contract*, book I, Chapter 3, directly attempts a refutation of "The Right of the Stronger": Right adds nothing to might if M→R; might only makes might or subjugates or forces obedience, but does not make moral obligations:[70]

> The stronger is never strong enough to be forever the master, unless he transforms his force into right, and obedience into duty. Hence the right of the stronger; a right which is apparently understood ironically, and in principle really established: But will no one ever explain this word to us? Force is a physical power; I fail to see what morality can result from its effects. To yield to force is an act of necessity, not of will; at most it is an act of prudence. In what sense can it become a duty?
>
> Let us assume this alleged right for a moment. I say that it can only result in an intelligible muddle. For once force makes right, the effect changes together with the cause; every force that overcomes the first, inherits its right. Once one can disobey with impunity, on can do so legitimately, and since the stronger is always right, one need only make sure to be the stronger. But what is a right that perishes when force ceases? If one has to obey by force, one need not obey by duty, and if one is no longer forced to obey, one is no longer obliged to do so. Clearly, then, this word 'right' adds nothing to force; it means nothing at all here.
>
> Obey the powers that be. If this means yield to force, the precept is good but superfluous, I warrant that it will never be violated. All power comes from God, I admit it; but so does all illness. Does this mean it is forbidden to call the doctor? A brigand takes me by surprise at the edge of the woods: am I not only forced to hand over my purse, but also obliged in conscience to hand it over even if I could withhold it? For a pistol he holds is, after all, also a power.

[69] See Korman for an extended examination of this phenomenon. See also Locke's "Of Conquest": ch. 16 of his *Second Treatise of Government*.

[70] I cite in length because this is the clearest and most compact refutation that I have come across.

> Let us agree, then, that force does no make right, and that one is only obliged to obey legitimate powers. (43-44)

An advocate of M→R as a definition of right or justice such as Thrasymachus, would reply to Rousseau in this manner: "Yes, precisely, right 'means nothing at all': it has no meaning outside of might."

Not long after Voltaire and Rousseau, Diderot *contra* the "law of the strongest" (*Diderot* 6-7) refers to "Hobbisme" and to Rousseau's views on M→R as a kind of inverse of those of Hobbes (*Diderot* 27ff).[71] In the later phase of the modern period, Immanuel Kant, Thomas Jefferson, and John Stuart Mill all presented refutations or challenges to M→R. Kant in his *Grounding* contra voluntarism and divine command ethics attempts a *reductio* thus: "Any system of morals based on such notions would be directly opposed to morality" (443)—in other words, it would be a moral system that contradicts itself by opposing morality and thereby itself. Jefferson, understandably concerned to point out abuses (65, 67, 69, 74, 78), reminds, *contra* M→R, that "force cannot give right" (79), but can normally give "monstrous abuse of power" (114).[72] Mill in *Utilitarianism* critiques M→R (54), Hobbes (59), and abuses of power (60). In his *On Liberty* he refers to the majority's potential abuses of power (4). It is, however, in *The Subjugation of Women* that Mill's critiques of M→R and its relation to the subjugation are most numerous and pronounced. In this essay, he refers to M→R in various ways at

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[71] Regarding the somewhat contemporary Montesquieu, Melvin Richter, in his introduction to *Selected Political Writings*, presents him *pace* Hobbes and Spinoza (28-29); Franz Neumann in his introduction to *The Spirit of the Laws*, presents him *pace* Spinoza (xxxii, lvii).

[72] Obviously views on the relation between M→R and revolution differ. Edmund Burke, in his *Reflections on the Revolution in France*, characterizes democracy as M→R (113-14). Thomas Paine, in *Rights of Man*, characterizes monarchy as M→R: "a maxim that a king can do no wrong" (*Common Sense* 106). Mary Wollstonecraft in her *Vindication of the Rights of Woman*, focuses on the M→R JVs offered by males to normalize their unjust dominations (27, 92, 93, 100, 128).

least eleven times (6, 7, 8, 9, 10, 11, 12, 13, 14, 88, 89)—"the law of the strongest" (6); "right on the side of might" (7); "right founded on might" (7); "social relations grounded on force" (7); the "law of force" (8, 9, 10, 45, 46, 88); the "rule of force" (14)—he also makes references to abuses of power (38ff, 48, 51, 82), and finally indicates the kind of so-called morality that comes from M→R and leads to the subjugation of women:

> The moral education of mankind has hitherto emanated chiefly from the law of force, and is adapted almost solely to the relations which force creates. (45)[73]

In the Twentieth Century,[74] Alain[75] in "Du droit et de la force" from his *Mars ou la guerre jugeé*, addressing "le prétendu droit du plus fort"[76] ends up merely referring back to Rousseau's refutation of M→R (246, 507-09). John Rawls in his "Justice as Fairness" refers to the Melian dialogue (174) and argues that if justice is not justice as fairness, then M→R (179). Michael Walzer begins his *Just and Unjust Wars* with a chapter entitled "Against 'Realism'" that addresses the Melian Dialogue as an illustration of M→R and attempts to refute or undermine this view of the realists (3-20), pointing out the significantly essential reliance on virtue within discourses on war: "Strategy, like morality, is a language of justification" (13).[77]

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[73] In her introduction to Mill's *The Subjection of Women* Susan Moller Okin seems to recognize that refutations are no longer needed: "Whereas once, all law had its roots in the power of some to coerce others physically, this concept was now regarded as generally unacceptable" (xi). Examining and offering an account of how, given this unacceptability, M→R still obtains is what this examination is aiming at.

[74] I present Chaïm Perelman's views on M→R in ch. II, in the "Thinking about Violence" section. H. L. A. Hart in "Are There Any Natural Rights?" tries to refute M→R simply by pointing out that "it would indeed be mysterious if we could make actions morally good or bad by voluntary choice" (184).

[75] Alain is the pseudonym of the philosopher, writer, professor, and journalist Émile Chartier (11).

[76] This expression can be rendered either as the alleged right of the stronger" (which echoes Rousseau's refutation) or as the alleged *advantage* of the stronger (which refers back to Thrasymachus and Callicles).

[77] Cf. Plato's Socrates' strategy.

Given that currently it is only some IR theorists who explicitly talk M→R talk, with their characterization of the international realm as a Hobbesian state of nature or a self-help realm, where the stronger help themselves at the expense of the weaker,[78] attempts to refute M→R, nowadays, are almost nonexistent. Thus exceptions can be found in the work of IR non-realists or non-neo-realists, such as Joseph Nye, responding to their colleagues—apparently because such refutations are no longer needed.[79] Where then is this examination situated?

3.3. Neither Advocating for nor Refuting

By trying to stand outside of the debate and trying to explain its long existence and its persuasive persistence as well as to deflate it a bit, this examination's perspective on M→R as a tacit JV is an attempt at not so much refuting what most would likely not consider in need of refutation any longer, but at exposing and thereby hopefully preventing some of the negative effects of M→R when it, nonetheless, functions as a tacit JV, including as a tacit JV in practically universally and ubiquitously common cases of unwitting abuses of power.

Thus although attempts at refuting M→R are almost nonexistent nowadays because such refutations are apparently unnecessary, nonetheless, this examination can

[78] Cf. the views of Morgenthau and Waltz.

[79] Here are some recent refutations of or references to M→R. Lyotard, in *The Postmodern Condition*, seems to offer a kind of refutation of M→R based on language games: the "denotative game" of might and the "prescriptive game" of right (15, 46-47). Lyotard concludes *The Postmodern Explained*, by answering in the affirmative, as part of his critique of modernism, the question "So is right in fact might?" in a way that seems similar to what I consider to be misapplications of M→R2 in M→R1 situations (64). Wade L. Huntley's "Kant's Third Image: Systemic Sources of the Liberal Peace" contrasts Kant's and Waltz' views on war and peace; furthermore, Huntley does not offer a refutation of M→R, he merely footnotes that war teaches both winners and losers that "might does not make right" (69 n.41)—cf. Thucydides' "war is a stern teacher" (242).

educate[80] us on our ways because it is an attempt at *re*-thinking about M→R from the perspective of a tacit JV. What is needed is not yet another refutation, but a new way of addressing M→R, of examining its logic, of indicating its fallacy, a fallacy that can affect anyone, anywhere, anytime. This examination is offering a non-cynical, logical, hypothetical explanation that might reveal the paradoxical persistence of M→R as well as deflate some of its corresponding deflationary views on justice.[81] Before developing this explanation,[82] however, this examination's broad background must be exposed in order to simplify the presentation of the explanation—that is, to unburden it from the load of contextualizing and allow it to focus only on explaining.

[80] I prefer the pedagogical figurative language of teaching and learning to the metaphors of revealing or enlightening. The latter seem to presuppose that what is revealed or what one becomes enlightened about is real and true: reality is being revealed or light on reality is increased. The former do not necessarily presuppose that the taught and the learned are part of reality: that a phenomenon teaches us something about ourselves or that we learn something about ourselves from a phenomenon does not necessarily mean that this something really is true about ourselves. The former language seems more modest, less metaphysical.

[81] Some might well characterize this examination as a refutation—so be it.

[82] As noted above, ch. III develops the explanation outlined in sect. 2.

CHAPTER II

BACKGROUND — PERSPECTIVAL, ASSUMPTIVE, AND CONCEPTUAL CONTEXT

> I write, not so much to make people read, but rather to make them think.
>
> Montesquieu[83]

What is the broad background of this examination? What is the motivation behind it? From which perspective is it working? How is it situated with respect to the other accounts of M→R? This chapter addresses these questions. In sect. 1, I reveal the primary perspective. In sect. 2, I show the political aspect of critical thinking, referring to the work of Chaïm Perelman and to that of fallacy theorists. In sect. 3, I show the limits of this examination as well as its non-exclusive nature. In sect. 4, I explain the choice of focus on justifications and the benefits of this perspective. In sect. 5, I explain the choice of formulation of M→R. In sect. 6, I show how M→R is etymologically (even if paradoxically) the paradigm of justifications. In sect. 7, I examine the notion of a tacit justification. In sect. 8, I examine further the notion of tacitness, focusing on the political implications. In sect. 9, I introduce the concept of *anthropodicy*, a term I coin by extending the concept of theodicy to include human actions at the level of a people. In sect. 10, I relate the notion of justification to that of order. In sect. 11, I present an extension of the concept of abuse of power that allows this examination to address and explicate the significant phenomenon of unwitting abuses as a manifestation of M→R. In sect. 12, I try to show why a cynical explanation is insufficient as a resolution for the

[83] Thus writes Montesquieu in his *Spirit of the Laws* (Richter 194). I share his end, for my writing here is meant as a motivation to think about M→R as a tacit JV as well as about abuses of power, especially our own abuses as individuals or members of a collective.

paradoxical nature of M→R. Finally, in sect. 13, I summarily characterize this examination as well as its non-cynical explanation, contrasting them to the essential characteristic of the usual accounts of M→R.

1. A Nonviolent Perspective

At one level, the context of this examination is my wondrous desire to learn about our[84] common ways of thinking about violence, ways that are based on widely held opinions.[85] Thus, I wondrously desire to learn about our ways of expressing our thinking: our ways of talking and writing about violence, our ways of telling stories about or presenting arguments for or offering accounts of our violent actions in order to make sense of them and to justify them, both to others and to ourselves, but especially to ourselves as members of some community, including international and global communities.

In democratic societies, this kind of thinking and expressing should matter; ideally, citizens' thinking as well as their actions following partially from their thinking should play a significant role in how democracies are governed and how they interact with other states. In order to examine these ways of thinking, I choose to focus on

[84] With "our" referring both to a particular people, say, the American people, or a particular collective and to humans more generally, to common ways all humans seem to have.

[85] I'm referring to the kind of common thinking that is based on long held and partially examined opinions or beliefs, including those held by thinkers and scholars, on what the Greeks, like Aristotle, called *endoxa*—not mere *doxa*, mere opinions, but widely shared and partially examined opinions worth examining further and more critically. Apparently following Socrates' approach of examining his fellow Athenians' opinions, Aristotle, as C.D.C. Reeves explains in his introduction, examining the views of his predecessors as well as the commonly held views, dialectically uses this *endoxic* method in his *Politics* (xix-xxv). He also uses it in his *Nicomachean Ethics* (1095a-b, 1108a). Kant also follows it to begin his *Grounding for the Metaphysics of Morals* (392-406). For a brief historical introduction to the concept, see F. E. Peters' entry *endoxon* in his *Greek Philosophical Terms: A Historical Lexicon*, in which he includes Aristotle's definition: "'Endoxa are propositions that seem true to all or to the majority or to the wise' (Top. I, 100a-b)" (53). For an extended examination of the concept of *doxa* more generally, see Ruth Amossy's "How to Do Things with Doxa: Toward an Analysis of Argumentation" and "Introduction to the Study of Doxa."

justifications for violence. I would like to examine what can and do our JVs teach us about our ways of thinking about violence, particularly, about our own violence, in order to see not only what our particular JVs can teach us, but also what our very justifying of our violence can teach us regarding our views on violence and on ourselves.

La Rochefoucauld defines hypocrisy as "an homage that vice pays to virtue."[86] Are justifications for violence the compliment violence pays to nonviolence? If this is so, is it also the case, then, that justifications for violence, in turn, are the price nonviolence pays to violence? Does this mean that the former point reveals the moral check nonviolence has on violence? If this is so, then does the latter reveal a kind of reality check that violence imposes on nonviolence? It would seem that JVs might teach us that although we wish to justify our violence in order to show our moral side, we are at the same time willing to use violence in order to abide by our mundane side. Nevertheless, I would like to examine the following intuition: justifying our violence is better, at least from a moral point of view, than *not* doing so. Just as it is better to hypocritically pretend to be virtuous than to honestly be vicious, so too it is better for the cause of nonviolence that its principles be openly declared, respected, recognized, admired even, and yet be actually cynically refuted, disrespected, and so on, than to have its principles openly attacked. If JVs are violence's homage to nonviolence, then even cynical offerings are better than none or, worse, than a direct attack on nonviolence—better cynical realists who openly pretend to pay homage to nonviolence and then act contrary to its principles than ones who reject the principles of nonviolence altogether and thus feel no need to

[86] This is Maxim 218 (http://en.wikiquote.org/wiki/François_de_La_Rochefoucauld).

justify their violence: the former[87] are, at minimum, limiting their powers.[88] Hence, even a cynical offer of a JV is better than no JV offering at all.[89]

Of course, it is not the case that for all perpetrations of violence someone or some group offers a justification or even implies one. There are at least two kinds of instances of violence for which no justification is either offered or implied. First, there are instances of violence that are not recognized by the perpetrators as such. This may be due to the perpetrators' ignorance, insensitivity, confusion, or unawareness. Second, there are instances for which the perpetrators feel no need to offer a justification or to imply one. This may be due to the perpetrators' seeing their actions, though violent, as simply an exercise of their natural powers, one that does not fall within the moral realm anymore than does a lion's killing of a zebra. For humans, whether there is a difference between these two kinds of instances remains an open question: it may be that in both kinds of instances the ultimate explanation is one regarding a certain kind of ignorance, a kind of moral slumber.[90] In this examination, I focus primarily on those kinds of instances of

[87] Cf. Aristotle's point that people "do not praise the same things openly as they do secretly, but to a great extent praise the just and the beautiful while privately they wish rather for what is to their advantage" (*Rhetoric* 1399a15); or H.F. North's "Callicles expresses what everyone else thinks but dares not say" ("A Period of Opposition to Sophrosyne in Greek Thought" 92). Aristotle and North seem to present the cynical (am I begging the question?) view, while I'm trying to focus on self-deceptive fallacious thinking, on a lack of critical thinking, a lack of self-examination of the kind Socrates calls for.

[88] Just as propaganda ultimately limits the power of those using it, so too do cynical offerings of justifications limit the power of those appealing to them; in both cases, the agents' powers are inherently limited by the values of those they wish to appease or to reach or even to deceive.

[89] I return below to the issue of cynicism and its relation to explanations: I try to show why a cynical explanation would not do and why I offer a non-cynical explanation given that I am interested in examining not the aberrational, but the normal.

[90] I return to this point in ch. III when I entertain the objection regarding Socrates' views on witting wrongdoing as well as in ch. V when I examine potential control over normally tacit reasoning.

unwitting violence for which we do not offer a justification, yet could offer one if one were called for,[91] however cynical the offer might appear to others.

2. Thinking about Violence: Critical and Political

How is an examination into people's fallacious thinking about violence politically relevant? Even if fallacies exist and the fallacy of equivocation can be characterized and extended to cases of misapplications of principles, how is a treatment of fallacies and argumentation theory (more broadly) politically relevant? I consider this kind of examination based on fallacious thinking as capable of being politically enlightening. I assume that argumentation theory and thus also theories of fallacies can be used substantially when examining political phenomena, and I try to show partially how this is the case. I am not alone in thinking this way.[92] This connection can be seen in the work of Chaïm Perelman[93] and those working within his new rhetoric, as well as in the work of those working within the field of informal logic.[94]

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[91] I develop this point further below by examining the phenomenon of tacit justifications.

[92] Indeed, I state without proving that the Socratic method is a way of arguing, in the sense of inquiring and discovering by the use of reason, that can connect these two apparently disparate realms of logic and politic.

[93] I return to Perelman's work in ch. IV, especially in order to show how his notion of dissociation offers support for the method of this examination's explanation.

[94] *The New Rhetoric* is the title of Perelman's magnum opus as well as the name of a movement. (Although Perelman co-authored this text with L. Olbrechts-Tyteca, I refer to the work and the views as Perelman's both for ease of reference and because I also refer to the work that he authored singly.) I have become acquainted with this new rhetoric thanks to John Gage. He and his colleague James Crosswhite, working within the field of composition, see argumentation as a political and social nonviolent way of resolving conflicts, a view that I share with them given that I have long been interested in the relation between critical thinking, nonviolence, and pedagogy. I list in the bibliography their work as well as those of others who have enlightened me on the project of this new rhetoric and its relation to informal logic, such as the work of Amossy, Michelle K. Bolduc, G. A. Brutian, Louise Cummings, David A. Frank, Frans H. van Eemeren, Rob Grootendorst, Alan Gross, Arthur J. Jacobson, Henry W. Johnstone,, Francis J. Mootz III, Olivier Reboul, Christopher W. Tindale, , Thomas A. Wilson, and Richard M. Zaner.

Methodologically, my work parallels Perelman's work on justice: while he wonders how we think and argue about justice,[95] I wonder how we think about and justify violence. Given its focus on M→R as a JV, this examination brings together the issues of violence and justice.[96] Furthermore, I share with Perelman and with some of the thinkers influenced by his new rhetorical perspective a vision of argumentation as a potential nonviolent way of resolving conflicts.[97] I do, indeed, consider this essay to be within the

[95] Perelman entitles one of his earlier essays "How Do We Apply Reason to Values?" (See also *Justice* pp. 58-59 and 72 for a brief exposition of his interest regarding thinking about values.) His early work was on the issue of justice: given the logical positivist ground on which he stood, he concluded his early examination of justice with the dilemma that justice could be grounded in or, better yet, backed either by arbitrary principles (indeed, meaning that it is not fundamentally backed at all in any moral sense), or backed only by force (*The Idea of Justice* ix, 45-60, 70) (*Justice* 5, 8, 32, 38-39, 70). His early essay "Concerning Justice" concludes thus: "a normative system, of whatever kind, always contains an arbitrary element—the value affirmed by its basic principles which themselves are not justified. This latter touch of the arbitrary it is logically impossible to avoid" (*The Idea of Justice* 60). It was this logical impossibility that troubled Perelman and led to his examination of argumentation in the realm of values, culminating in his new rhetoric. Perelman later rejected this original position (*Justice* v, 53); he recognized that he was dealing with a false dilemma (*Justice* 34, 56, 68-69) ("Self-Evidence and Proof" 294); he thus started focusing on argumentation, reviving its dialectical aspect, an aspect Aristotle had examined (*The Realm* 1, 162) (*The Idea* 163-67).

[96] In addition to his focus on the issue of the arbitrary, Perelman explicitly examines the issue of M→R. In "Three aspects of Justice" in *The Idea of Justice and the Problem of Argument*, he refers to "the arbitrary favoured by those who would impose laws solely in the name of the force at their disposal" (70). In *Justice*, he asks, "Must we inevitably admit that might is right, and that force is the ultimate foundation of all systems of justice?" and tries to begin to answer by referring to argumentation theory and the act of convincing rather than "imposing" by "the use of force" (70).

[97] In "The Rule of Justice" from *The Idea of Justice and the Problem of Argument*, Perelman concludes thus: "If we assume it to be possible without recourse to violence to reach agreement on all problems implied in the employment of the idea of justice we are granting the possibility of formulating an ideal of man and society, valid for all beings endowed with reason and accepted by what we have called elsewhere the universal audience" (86-87). In his *New Rhetoric*, in "Argumentation and Violence," Perelman puts it this way: "all argumentation can be considered as a substitute for the physical force which would aim at obtaining the same kind of results by compulsion. . . . One can indeed try to obtain a particular result either by the use of violence or by speech aimed at securing the adherence of minds. . . . The use of argumentation implies that one has renounced resorting to force alone. . . . Recourse to argumentation assumes the establishment of a community of minds, which, while it lasts, excludes the use of violence" (54-55). (Cf. his summary in *Justice* p. 86.) Gage dedicates a whole chapter in his composition textbook, *The Shape of Reason*, on the ethical way—"Ethical Argument"—encouraging a nonviolent way of arguing as inquiring *with* others. Crosswhite in his *Rhetoric of Reason*, stresses the potential nonviolence of argumentation throughout his book: referring to "conflict" in over a hundred pages and "violence," "force," peace," "peaceful," or "nonviolence" in over fifty pages of his three-hundred-page book. He summarizes the theme or heart of his book in his introduction thus: "Chapter 4, 'Argument and Conflict,' is both the center of the book and the centerpiece of the theory. It continues the ethical interrogation into the basic features of argumentation by elaborating the many dimensions of conflict that are active in argumentative reasoning.

realm of argumentation theory. But I also consider argumentation, particularly, though not solely, in its form of a justification for violence, as being always already political.[98]

Now since abuses of power, which I examine below, I consider manifestations of M→R as a JV and since they are not limited to abuses by individuals in personal[99] or professional or social or institutional realms, but also, of course, in political ones, I am examining the logic behind or underneath these phenomena and thereby working within the realm of argumentation theory and fallacies. Thus I am working in both realms, or, as I prefer to think of it, in one realm—the human realm—from a variety of perspectives, but especially from that of fallacy theory. Furthermore, since anyone can and all of us do

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The chapter develops in detail one of the central claims of the book: that conflict is the spirit and life of reason and argumentation" (9). Crosswhite then begins to reflect on the potential nonviolence in argumentation in his first chapter: "The central aim for a rhetoric of reason in this regard will be to show clearly what role reasoned discourse can play in such reconciliation, and what the relation is between reasoned discourse and coercion and other forms of force" (17). More explicitly, Crosswhite stresses the potential nonviolent way of argumentation thus: "The rhetorical theory I am pursuing here already has its aims: to strengthen our confidence in the possibility of nonviolent resolutions to our conflicts, to defend the possibility of social criticism, to help shape a credible account of the purpose of higher education" (30); Crosswhite then repeats this theme throughout his work, e.g., on pp. 33, 35, 45, 47, 54, 72, 82, 99, 103, 140, 200, 212-13, 218-19, 294.

[98] The idea that we can ground sound political thinking, as well as sound moral thinking, in a rational soil and even in a purely logical one is likely as old as philosophy. One of the most intriguing modern example is Leibniz' attempt at developing a universal symbolic language that would make possible a universal way of logically resolving conflicts through the use of arguments universally recognized as sound, just as are mathematical arguments. Although his attempts failed, his vision of a universal symbolic language still lives in the work of formal and mathematical logicians. For a recent exposition of the relation between argumentation theory as well as fallacy theory and politics, see Eemeren's "A World of Difference: The Rich State of Argumentation Theory," which not only reports on the state of argumentation and fallacy theory, but also shows the connection with politics, as Eemeren's first section indicates by its title: "1. Argumentation and democracy." See also Keith E. Stanovich's "An Exchange: Reconceptualizng Intelligence: Dysrationalia as an Intuition Pump"; as a cognitive psychologist, Stanovich examines in much of his work the relation between cognitive capacities and the teaching of critical thinking; in this essay, he examines political imports: e.g., "The development of rational thinking is worth the attention of educators because these skills and dispositions profoundly affect the world in which we live" (17), or quoting another concerned psychologists, Stanovich writes, "Moshman (1990) argues that some degree of rationality is necessary before an individual can be truly said to possess personal autonomy and political liberty. Democracy is dependent on the ability of the citizenry to make autonomous political choices," and then Stanovich adds, "Like Moshman (1990), Baron (1985) views rationality as a quality which, like courage and honesty, is worthy of fostering as an end in itself. He argues that rationality is central to our democratic concept that people are responsible for their government" (18).

[99] Haven't feminists sufficiently shown that the personal is political?

sometimes commit fallacies, this kind of phenomenon is not psychologically pathological, but rather universally cognitive, given that thinking is inherently fallible. Hence anyone thinking politically or about politics and political actions could commit fallacies and, as the reality of politics suggests, would commit fallacies at times.[100]

Therefore, this essay is about both our thinking and our acting, including our doing so politically. By examining JVs and M→R as a JV I am trying to show one of the functions of argumentation in situations regarding violence—in particular, the actual violence of argumentation as well as its potential nonviolence.[101]

3. Not Just Thinking

The scope of this examination is limited: the focus on the fallacy of equivocation is not meant to exclude other conditions or factors in play in JVs regarding uses of power, including other thinking factors, but especially non-thinking factors such as feelings, desires, wishes, and needs. What might be some reasons people abuse their power? Or more precisely, what might be other factors playing a role in this phenomenon, a typical manifestation of M→R as a tacit JV?[102] These kinds of questions are legitimate questions, but they are beyond the scope of this examination. The focus on the fallacy of equivocation as a sufficient condition in explaining M→R's functioning as a tacit JV is not meant to exclude other motivational conditions, including other ways of thinking, but

[100] Examining this universal phenomenon from the perspective of fallacious thinking permits me to treat it properly in its universality given that committing a fallacy is a universal phenomenon and not a particular pathology. If abuses of power are not pathological, if we all as individuals or collectives abuse our powers sometimes, somewhere, with respect to some people, then the proper examination must not be one based on pathological thinking or behavior.

[101] The perspective of nonviolence calls for a broad notion of violence, one that is not limited to the violence perpetrated only by means of physical force. I return to the issue of the definition of violence below, beginning in sect. 4.

[102] I examine and develop further below abuses of power as manifestations of M→R as tacit JVs.

especially a desire or need to control the environment (including others),[103] a sense of superiority, or a sense of being divinely selected. I recognize that our use of power may be due to other factors such as our finding it enjoyable, desirable, or even needed, and that thus factors relating to additional aspects of the human condition, besides our equivocal thinking, can play a role in explaining and justifying our violent ways. Emotions and thoughts—for instance, a sense of self-defense or a desire for revenge or a feeling of necessity—together intermingle, moving us to see our violence, at worse, as the least bad option amongst even worse scenarios or, at best, as right or just or, at least, not unjust. No doubt some of these other factors often facilitate[104] the M→R fallacious reasoning even when they are not necessary since the equivocation is sufficient.[105] This examination, however, remains well within the limits of philosophy, and even there only within the limits of critical thinking or, more specifically, of fallacious reasoning,[106]

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[103] Here are a few examples. In book V, ch. 10 of his *Politics*, Aristotle, in his discussion of political power regarding the destruction of regimes, particularly of tyrannies, writes, "people always do what they wish when they have the power" (1312b). Augustine, in his *City of God*, talks of the "lust for domination" (202, 875) or the "love of domination" (198) (see Philip Cary's *Augustine: Philosopher and Saint*, "Lecture 12: The City of God"). Maimonides similarly talks of "the quest for domination" (*Ethical* 116). Simone Weil refers to "the intoxication of power" ("The Power of Words" 236). In her treatise *On Violence*, Hannah Arendt locates one source of the "glorification of violence" in the "severe frustration of the faculty of action" (83).

[104] I examine and develop further below, primarily in ch. III, the various ways one might be moved to misinterpret situations and thereby misapply the M→R principles.

[105] For instance, there might be purely psychological explanations or sociological ones or even biological ones or perhaps combinations of these such as sociobiological explanations. The presentations of other explanations might take the form of scientific essays, poetry, novels, films or any other art form imaginable. I offer solely a sufficient explanation—a non-exclusive, non-cynical one.

[106] Tom Regan, in "The Case for Animal Rights," echoes a similar sentiment in response to his work being too cerebral and not emotional: "As a trained and practising philosopher, the sort of contribution I can make is limited but, I like to think important. The currency of philosophy is ideas—their meaning and rational foundation" (301). He goes on to conclude on this passionate note: "Well, cerebral I have been. . . . I am also reminded, however, of the image another friend once set before me—the image of the ballerina as expressive of disciplined passion. . . . That is the image of philosophy I would leave with you, not 'too cerebral' but *disciplined passion*" (312).

though, again, this limitation does not preclude this examination from being also politically relevant.

4. Why Justifications?

This examination focuses on the notion of justification[107] because a justification can take the form of an argument and because an argument can be critically examined and thus evaluated regarding its validity and soundness. It is upon this aspect of JVs[108] that this examination relies.[109] It is by thus treating and examining M→R *as* a JV that this examination's thesis can be asserted, a thesis that depends completely on the concept of fallacy, on the possibility of fallacious thinking.[110]

There is a collateral benefit of examining phenomena from the perspective of JVs, not obvious at first sight, namely, the benefit of addressing the difficult question of the definition of violence. Defining violence has been and still is a challenging task. If JVs presuppose violence, however, then a JV perspective can be an indirect, yet perhaps nonetheless enlightening, way of getting closer to a definition of violence or, at a minimum, to the senses of violence held by those offering JVs.[111] Additionally and substantially, some JVs are neither offered as such or even implied as possible offerings

[107] A justification is not a direct reason for acting in the sense of an action's goal or end or purpose, but rather it is a reason for thinking that an action is permitted or at least not prohibited: a justification gives permission to act. The issue is not why one is acting, that is, for what purpose, but rather why one thinks one is justified in acting, not what made one decide to act, but rather what made one think that one was justified to act.

[108] Of course, not all justifications function as justifications for violence.

[109] It might be educative to apply the principle of M→R to the argument that is M→R as a JV. M→R in argumentation declares the strongest argument the right argument.

[110] I develop this issue below, primarily in ch. IV, in the "Fallacy Theory" section.

[111] Cf. Ronald B. Miller's "Violence, Force and Coercion" on first the need to define violence and the need to think critically about JVs (11) and on the JV presupposition that violence can be justified or that it is possible for violence to be *not* wrong (23ff); or Francis C. Wade's "On Violence" regarding the confusion over the sense of violence due to the focus on force and the ignoring of infringement (376-77).

of JVs: indeed, they are probably not thought of as JVs by most since they appear as theories or stories or explanations or hypotheses or myths or proverbs or maxims or as other forms that are not apparently that of JVs. These tacit JVs,[112] if they do indeed function as JVs, would reveal additional senses of violence, senses that most definitions of violence would likely ignore and that JV lenses might reveal.

Although many thinkers have either explicitly or implicitly referred to JVs [113] and although many have explicitly examined some JVs,[114] it seems that none has

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[112] I explain the substantial aspect of tacit JVs below, especially in the "Tacit Justifications" section.

[113] Many of these references might require JV lenses in order to appear as JVs given that they most often appear as stories or myths or oracles or explanations or hypotheses or theories, and so on, thus appearing to be innocuous. I examine this point further as well as note below, in the "Tacit Justifications" section, those thinkers who might be interpreted as referring *implicitly* to JVs.

[114] Here are some thinkers who, given my interpretations of their thinking through JV lenses, have more or less explicitly examined JVs: Aristotle in his *Politics*, referring to just and unjust wars (1255a20-25, 1256b25), justifying war by means of peace: "War must be chosen for the sake of peace" (1333a35) or "peace is the end of war" (1334a15); Cicero on just wars in his *On the Commonwealth* (169, 216); Aquinas on just wars (*On Law, Morality, and Politics* 141-42 & 164-67); Francisco de Vitoria on the peace-is-the-end JV, on sound and unsound JVs, and on self-defense as a JV but not as an absolute JV (Holmes, *War and Christian Ethics* 118, 126ff, 128-29, 130ff, 135-36, 142, 151, 153); Francisco Suarez on just wars and on the peace-is-the-end JV (*Ibid* 199ff, 202ff, 222); Walzer in *Just and Unjust Wars*, in his "Political Action: The Problem of Dirty Hands" on "for our greater good" as a JV (65), on JVs versus excuses referring to Austin's "A Plea for Excuses" (72), and in his "Moral Judgment in Time of War" on moral necessity as a JV (57-58) as well as on the possibility of the end-justifies-the-means as a JV (60-61); H. L. A. Hart in "Are there any Natural Rights?" on moral rights as JVs (176-78); Rawls in his *Theory of Justice* on just war (8) and on war as self-defense (115); Jerome A. Shaffer as editor of *Violence* on when JVs are possible, namely, when a better world is the end (4) or when the end is a "more just and humane society" (2); Peter J. Riga in "Violence: A Christian Perspective" on just war (143), on self-defense (145), and on violent revolution (149ff): a "theology of revolution" (153); Robert Audi in his "On the Meaning and Justification of Violence" addressing objections to JVs (85-89), on social reform as a JV (74), on "justifiable exceptions" (76), and on expanding freedom as a JV (77, 93); John E. Smith in "The Inescapable Ambiguity of Nonviolence" on various JVs such as retaliation, expressions of indignation, retributive justice, demonstration (156), on necessity as a JV (5156), on the effectiveness and efficiency of JVs (156), and on the ambiguity of JVs (157); Robert Paul Wolff in his "On Violence" on the impossibility of JVs based on his definition of violence, and on "the myth of legitimacy" (604, 616), and in his "Beyond Tolerance" on ideology as a JV (39) and on pluralism as a JV (40); Barrington Moore, Jr. in "Tolerance and the Scientific Outlook" on "revolutionary violence" as a JV (74-76) and on the end-justifies-the-means as a legitimate JV when the end is freedom (75); Herbert Marcuse in "Repressive Tolerance" on violence by oppressed as a JV (103-04), on progress in civilization as a JV (107), on discriminating against the discriminators as a JV (110): "If [the oppressed] use violence, they do not start a new chain of violence but try to break the established one" (117), and in the chapter "Problem of Violence and the Radical Opposition" on right of resistance as higher law as a JV (*Five Lectures* 89, 104-05), on self-defense as a JV (90-91), on humanitarianism as a JV (104), and on peace *contra* oppression as a JV (105); Bernard Gert in "Justifying Violence" on the possibility of JVs if violence is not moral (617, 620), on punishment as a JV

systematically undertaken a JV perspectival examination, comprehensively, and as the primary focus—especially, as a means to understanding more critically views on violence, views perhaps most clearly revealed through JV lenses. It is in making possible looking through JV lenses, focusing and magnifying through them phenomena previously invisible or too small to delineate, that critical examinations of phenomena *as* justifications for violence reveal their significant contributions to our understanding of violence and of ourselves with respect to violence—particularly, *our* violence.

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(623), on "My country right or wrong" as a JV (627), and on violence justified when publicly advocated (627); Robert L. Holmes in "Violence and Nonviolence" on "Hegel . . . wars preserve the 'ethical health' of nations" as a JV (104), on the logical possibility of JVs (119), on the JV's burden (126), on the need for JVs (126); Bernard Harrison in "Violence and the Rule of Law" on violence to "establish or reestablish the rule of law" (139, 146), on violence-if-no-other-means as a JV (143); John C. Ford in "The Morality of Obliteration Bombing" on just wars (15), on burden of proof and the need for JVs (20), on "unwarranted application" of double effect as a JV (26ff), on the need for other JVs (29), on "they did it first" as a JV (33), on vengeance as a JV (33), on military necessity as a JV (35), on bombers as means to peace as a JV (35), on total war as a JV (39), but really as an excuse (40); G. E. M. Anscombe in "War and Murder" on two JVs for rulers (42), on Roman JVs (43), on double effect (46, 50-51), on principles as JVs (47-48), on pacifism as a JV (49-50), on the impossibility of JVs when violence is against innocents (51), on critiques of JVs such as drawing the line fallacy or fear of communism as a JV (52-53); Jan Narveson in "Pacifism: A Philosophical Analysis" on the legitimacy of JVs *contra* pacifism and its self-contradictory nature: "A right just *is* a status justifying preventive action" (72), on justified violence when necessary, by any means necessary, with sufficient force (74), on "escalation automatically justifies" violence (74), on the *reductio* that if JVs are impossible, it follows that the initial violence is not wrong, and on self-defense and defense of others as JVs (75-76); Richard Wasserstrom in his "On the Morality of War: A Preliminary Inquiry" on Truman's JV of national interest (83ff), on self-defense as a JV, along with a critique (85, 89-94), on "War is hell" as a JV (86), on the logic that if violence is not necessary, then JVs are not possible (86), on the-end-justifies-the-means as a JV (87), on violating treaty as a JV and thus on treaty as a JV (87), on the heavy burden of killing innocents as "the heaviest of justificatory burdens" (100-01); Adam Bedau as editor of *Civil Disobedience: Theory and Practice* on "the logic of . . . justifications" (213), along with the following contributors: H. B. Acton in "Political Justification" examining the logic and grounds for justifications of disobedience, Rawls in "Justification of Civil Disobedience" relating the legitimate justifications to his principles of justice, Wasserstrom in "The Obligation to Obey the Law" on the unjustifiable civil disobedience, and Bruce Pech in "Radical Disobedience and its Justification" on the justification of even violent civil disobedience; and neither last nor least, Eric Reitan in "The Moral Justification of Violence: Epistemic Considerations" on JVs as excuses (445) as well as on the distinction between epistemic and moral justification (446).

5. "Makes" Makes a Difference

I choose to examine "Might *makes* right" over examining "Might *is* right"[115] because the former seems to be a more challenging formulation, and, furthermore, because the latter seems to be less significantly and less relevantly ambiguous. The "is" of "Might is right" could refer to either the predicate form or the identity form. If it refers to the predicative, then the concept "might" would be at least as extensive as the concept "right," but could be less extensive, thereby making it possible for there to be cases of right that are unrelated to might.[116] If "is" refers to the identity of the two phenomena, then it would seem that every instance of might is also an instance of right, and vice versa, but what does this mean? Is this simply an expression of the deflationary definition of right or justice? Expressed as an identity, this definition still permits justice to have a logical priority that is identical to that of might and thus to be, if derivative, derived not from might, but from the same source as might. Whereas, in the case of "Might makes right" the verb "makes" indicates that might produces right, and this production seems to make right fundamentally dependent on might.

But, some might ask, does "Might makes right" necessarily mean that right is always originally dependent on might? Is it solely and exclusively might that makes right? Furthermore, is it only might that can make right?

It would seem that this exclusive production of right, at least from a JV perspective, is not actual because it is not possible. Indeed, when "Might makes right" is

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[115] Cf. Rousseau's refutation of "Might is right" as he exposes the problems with this formulation, namely, that right adds nothing to might if one is identical to the other. What might Leibniz' identity of indiscernibles reveal in the case of this formulation? Is there any characteristic of right that might does not have or vice versa, one that would refute this formulation?

[116] The predicative proposition "*S* is *P*" implies that there might be members of *P* that are not *S members*: e.g., "A cat is a mammal" implies the possibility of mammals that are not cats.

used as a justification for violence there seems to be the following paradox, that is, the following performative contradiction: in order to play the role of a JV, "Might makes right" needs to presuppose right since it presupposes the existence of justice that the notion of justification presupposes. Thus the "might" of "Might makes right" as a JV cannot make right originally, but rather must necessarily presuppose it: might's production is then analogous to an artisan making an instance of an artifact whose standards and blueprint have a logical priority over the made object. Hence "Might makes right" as a JV is self-defeating: all that "Might makes right" as a JV is able to do in the process of declaring the priority of might over right is simultaneously to reaffirm necessarily the priority of right over might.

What about "Might makes right" in either its descriptive or its definitional role? Can either form escape the paradox? If "Might makes right" merely deflationarily defines justice or simply describes the ways of the world, then it does not seem to need to presuppose justice or right: for it could be the case that what is called both justice, in general, and just acts (that is, instances of actualized justice), in particular, are common ways of ignorantly characterizing some of might's makings. What if reality is such that it is might that makes right: what is paradoxical about this reality? If reality is this way, then it *is* and thus cannot be self-defeating.[117]

[117] I try to address this exceptional escape from paradox below; here I would like to begin to situate historically the apparent conditions for the possibility of this exception. In their references to and talk of M→R, Plato's Thrasymachus in the *Republic* and Callicles in the *Gorgias* necessarily need to be explaining what justice really is by deflationarily defining it as *nothing more than* the advantage of the stronger or the production of power or the makings of might. That Thrasymachus is silenced by Socrates (see, e.g., Allan Bloom' s interpretive essay, in his translation of the *Republic* pp. 325-37, especially p. 337) or more precisely and significantly that he remains silent after his initial declaratory outburst seems most proper since any additional explanation on his part might appear to be a characterization of M→R as a JV, which is ultimately self-defeating. Callicles too should have remained silent. If one is to maintain that M→R, one ought never to appeal to that doctrine except perhaps as a teacher of the nature of justice and of the ways of the world. If one thinks that M→R, one must let one's might speak for itself and *justify* itself, if such

I cannot fully address this question until I examine both the concept of a tacit JV[118] and the problems with cynical explanations.[119] For now, I can point out the following: what is intriguing is that “Might makes right” and “Might is right” when rendered in various languages have been historically more typically responses to some apparently already accepted common conceptions of justice, perhaps conceptions derived from religious or mythical ones. Justice is often portrayed as a divinity[120] or as a characteristic of a god amongst polytheists[121] or as an attribute of God in the eyes of monotheists.[122] This kind of historical priority can be seen even in the cases of those

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justificatory characterization is even possible: in other words, one must act in *silence*, and never speak of one's action before, after, or during its performance in any way that might be construed as a justification. In "The Sounds of Silence: Rhetoric and Dialectic in the Refutation of Callicles in Plato's *Gorgias*" Rod Jenks seems to allude to this point of silence as regards Thrasymachus (208 n.20). In his *Constitutional Theory*, Carl Schmitt, as an apparent Hobbesian and Spinozist, seems to recognize this point when he offers as an explanation of the ways of states that a state acting from its own might in order to preserve itself must act on its decision in *silence* since even its "war receives its meaning from being conducted in the interest of self-preservation" (394): no need for a JV (see note on Schmitt in ch. I).

[118] I do so below, in the "On Tacit Justifications" section.

[119] In the section on cynical explanations, I try to show there that ultimately, *even* in its purely descriptive or explanatory role, the M→R doctrine should probably not be appealed to before, after, or during action since, given the phenomenon of tacit JVs, that would appear to make the might of the action dependent on the sanction of justice: after all, as I've just shown, M→R *as* a JV is self-contradictory, self-undermining, self-defeating.

[120] For justice as a divinity, see, e.g., Hesiod's *Theogony* on *Dike* the goddess of justice, daughter of Zeus and Themis, whose name "means 'right' or 'established custom'" (76), (Elizabeth Vandiver rendering Themis "right order" ("Lecture 5: The Reign of the Olympians"); or Hesiod's *Works and Days*. In *The Idea of Justice*, in "The Three Aspects of Justice," Perelman examines the relation between justice and the divine (72-77).

[121] For justice as a characteristic of gods, see, e.g., justice as Pharaoh's attribute in Roland de Vaux' *Ancient Israel—Social Institutions* (145); in the *Epic of Gilgamesh*, Shamash as a just judge (21-29); in the *Bhagavad Gita*, Krishna showing Arjuna the right way, the right conduct, the way of justice; Hesiod in his *Works and Days* referring to Zeus' justice (57, 58, 64, 65, 66, 101); Grotius deriving *ius* from Jupiter the Roman name for Zeus (Wilson 211).

[122] In the monotheistic tradition, God is all benevolent and all beneficent, always willing the good and always making the right. See, e.g., Perelman's "God is Righteousness and Justice (Deuteronomy xxxii, 4; Isaiah xlv, 21)" (*The Idea of Justice* 73); or Richard Elliot Friedman's *Who Wrote the Bible?* (ch. 14, the "Justice and Merci" section (238-41)).

offering these sayings *as* deflationary definitions of justice:[123] these kinds of definitional offerings seem to be precisely responses to views that presuppose the traditional existence of a might-independent justice, one that seems to give right a historical priority over might.[124]

Two examples from the Greek tradition help to illustrate this historical priority. In one of our earliest Greek texts, namely, *Works and Days*, Hesiod warns about what happens when justice is ignored: from now on, might shall make right.[125] A few centuries later, in Plato's *Republic* and *Gorgias*, we see Thrasymachus and Callicles advocating for a version of M→R,[126] both apparently responding to the views of those who believed that a might-independent justice already existed.[127] Is the logical priority of right over might then being illustrated by this apparent kind of historical priority? I try to show below this

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[123] Cf. Perelman on deflationary definitions: "But an ambiguous notion cannot be exhausted by simply enumerating the cases to which it applies. This means that successive criticisms of a series of its aspects cannot turn our thoughts away from it: final devaluation of the notions of justice, liberty, and wisdom cannot be achieved by showing that all forms of these notions that one considers are but fraud" (*The New Rhetoric* 134).

[124] In *The New Rhetoric*, Perelman explains the "Loci of Quality" (89-93). "*Loci* of quality occur in argumentation when the strength of numbers is challenged. . . . They are used by reformers or those in revolt against the commonly held opinions" (89). To *quantity*—to the majority view—is opposed *quality*. The *locus* of quality is "often characteristic of the argumentation of those who wish to change the established order" (96). This seems to be the case of the sophists showing that—no matter what almost all people believe, following their ancient tradition, religion, and myths—the true quality or nature of justice is nothing but the advantage of the strongest.

[125] "Might will be right" and "Justice and respect will be in violence" (105), warns Hesiod; of course, these warnings might reveal, after all, concerns about views that justice is nothing other than the making of might—apparently a perennial concern.

[126] See ch. I, "Advocating for M→R."

[127] As noted, justice was sometimes considered a divinity as in *Dike* the goddess of justice, which means that justice was part of an old tradition and that Thrasymachus' and Callicles' definitional offerings were part of a new or perhaps renewed challenge to this old tradition: see, e.g., Rachel Barney's entry in the *Stanford Encyclopedia of Philosophy*—"Callicles and Thrasymachus"—regarding "the conventional character of justice" that "the immoralist challenge" (17). Aristotle, in his *Rhetoric*, gives natural grounds for the tradition by offering the concept of an innate sense of justice: "there is in nature a common principle of the just and unjust that all people in some way divine" (1373b2). Of course, the natural vs. the conventional (*physis* vs. *nomos*) controversial issue was at the heart of many of the philosopher-sophist disagreements.

logical priority through my critical examination of tacit JVs and cynical explanations regarding M→R. Before doing so, however, I would like to examine a further revealing aspect of the "Might *makes* right" formulation.

6. M→R As the Paradoxically Paradigmatic JV

It does not seem to be insubstantial that the etymology of "justification" or "to justify" is closely related to M→R: "to justify x" (where x is any action) literally means "to make x just or righteous."[128] To justify x is to show both that and how x is an action that is at least in accordance with justice, if not one that follows from justice. Thus it is ironically paradoxical, given the self-contradictory nature of M→R *as* a JV, that in some ways "Might *makes* right" typifies or is the exemplar of JVs: it is the paradigmatic JV—at least, etymologically.[129] Does this mean then that right has furthermore an etymological priority over might? In any case, it would seem thus that examining M→R—and such an examination etymologically, at least, seems to call for a JV perspective—is a good place to begin examining phenomena from a JV perspective. Even if, however, this paradigmatic JV aspect of M→R is correct and even if, additionally, justifications can be examined as arguments and thereby evaluated as such, why stress the tacit aspect of M→R as a JV? Furthermore, how can a tacit JV function as a JV at all?

7. On Tacit Justifications

Given that M→R is not normally seen as a justification, I need to show how it can function as such. I do so through the concept of a tacit justification.[130] An examination of

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[128] The verb "to justify" is derived from the Latin "*justificare*" (Merriam-Webster's), from "*justifico*" from *justus* and *facio*, (*Dictionnaire latin*), the latter from *facere*, "to make" (*The New College Latin*).

[129] One ought to critically consider this paradigmatic point in light of the etymological fallacy.

[130] I use the language of the tacit rather than the *unconscious*: although the latter might better capture psychologically the phenomenon I am referring to, the former, as I try to show below, seems to better

this concept helps to show how M→R as a maxim that almost no one would appeal to in order to justify an action can, nonetheless, function as a justification for violence, by functioning tacitly.

Sometimes our justifications for violence are not offered directly or explicitly but lurk tacitly in the background of our violent activities, as potential JVs ready to be deployed if need be. There are, however, even more intriguing tacit JVs. These are JVs that are not offered as JVs at all; they rather appear as myths or as stories or as theories, explanations, accounts, sayings or as other forms of expressions purporting to help us to learn more about reality and history;[131] other JVs may appear as institutions, policies,

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capture the political aspect. But psychologically, may one speak of an unconscious, fallacious reasoning? Is unconscious reasoning possible? Does it make sense? I try to address these questions below, especially in ch. IV. Furthermore, Jürgen Habermas makes some insightful points regarding the function of tacit assumptions: I present some of these in ch. IV. From the postmodern tradition, Jean-Francois Lyotard, as Frederic Jameson indicates in his foreword to *The Postmodern Condition*, seems to treat master-narratives as tacit assumptions if not tacit JVs: "the master-narratives . . . *unconscious* effectivity as a way of 'thinking about' and acting " (xii). Of course, not all tacit assumptions function as parts of tacit justifications, nor do all tacit justifications function as tacit justifications for violence.

[131] Here are some examples, again interpreted from a JV perspective, that is, examining them through JV lenses: on the Trojan War and the kidnaping of Helen as a JV, which Thucydides debunks and reframes as piracy (40) and as "plundering expeditions" (42); Hesiod on myths as JVs in his *Theogony* (85); Herodotus in his *History* on kidnapped women as a JV (33-35), on some JV stories (211, 232-35, 343), on oracles as JVs (357, 381), and even on a hint of just war theory in his reference to unofficial war (390); as with all other scriptures, such as the *Bhagavad Gita* or *The Epic of Gilgamesh*, on myths, stories, histories, and traditions as JVs; Aristophanes in his *Acharnians* also on kidnapped women leading to war (72); Plato in his *Alcibiades* on what seems to be a hint at just war theory, and in his *Laws* arguing against the view of war as end for the legislator (626), and for war as a means to another end (628 &922); Aristotle, in the *Politics*, book VII, ch. 14, echoing Plato's views, "War must be chosen for the sake of peace" (1333a35); Augustine in his *City of God* on what seems to be a kind of blaming-the-victims JV (213, 874-5) and on the peace-is-the-end JV (862, 866, 882); Luther's *Against the Robbing and Murdering Hordes of Peasants* on law and order as a JV, with duty (52-53), just cause (53), and martyrdom (53) as JVs more particularly; Calvin on finding scriptural sanction for just wars and for the peace-is-the-end JV (Holmes, *War and Christian Ethics* 168); Erasmus questioning whether there is such a thing as a just war since people always characterize their own wars as just (Holmes, *War and Christian Ethics* 178-79); More in his *Utopia* referring to JVs based on just wars and natural law (21,67, 105); Grotius in his *Laws of War and Peace* on just wars (Wilson 216); Leibniz referring to colonizing as a JV (*Principles of Pufendorf* 108), and in *Mars Christianissimus* to "raison de guerre" as a JV (131, 139), to heresy as a JV (131), to "the end justifies the means" as a JV (131), to archival discoveries of own territory as JVs (140-41), and to the peace-is-the-end JV (145), and in *Codex Iuris Gentium* to providence as a JV (192); Voltaire on patriotism as a JV as "Rubbish!" (25), on "just war?" —"an impossible contradiction" (154); Montesquieu in *Spirit of the Laws* referring tacitly to necessity, including necessity of self-defense, as a JV (Richter 201), differences in customs as a JV (Ibid 203), religion as a JV (Ibid 203), weather as a JV (Ibid 204); Burke in his *Reflections*

treaties, and other such human creations[132] that reflect our need to order our world. I would like both to examine how some of these kinds of tacit JVs that *prima facie* do not appear as JVs—especially not to those offering them—do their justificatory work, and to show how the concept of this kind of tacit JV might explain how M→R can function practically universally and ubiquitously. Thus the phenomenon of M→R as a JV might be both revealed and explained by the phenomenon of tacit JVs, especially by the tacit JVs that appear as forms of discourses that do not claim to be JVs at all, but that, nonetheless, end up functioning additionally as JVs.

Some might object. Aren't these forms of discourses—however they are expressed, whether as theories or stories, whether as myths or sayings—after all, not JVs at all precisely because of the way that they are presented as well as the form they take?

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on the Revolution in France comparing revolutions and just wars (29, 34) and discussing JVs in general (171-75), and in particular ancestors' crimes as JVs (172); Paine in his *Rights of Man* referring to national animosity as governments' JVs (*Common Sense* 110) and to intrigues in courts as JVs (*Ibid* 111); Jefferson focusing on legitimate revolution as a JV, "a little rebellion now and then is a good thing" (108) and the liberty tree (110); Robespierre expounding on terror as emanation of virtue as a JV (115); Wollstonecraft in her *Vindication of the Rights of Woman* referring to various rationalizations used as JVs (92, 93): "To account for, and excuse the tyranny of man, many ingenious arguments . . ." (100); Bossuet in his *Politics Drawn from the Very Words of Holy Scripture* claiming scripturally the divine right of monarchy as a JV (1, 41, 48, 54, 57-62, 82, 260) and also referring to just and unjust wars (53, 287ff, 293ff); Mill in his *On Liberty* writing on rebellion as resistance as a JV (2), on utility as a JV (21), and on society's JVs (73), and in *The Subjection of Women* focusing on "iniquity justified" (35) and on "women's unfitness" as JVs (53); Clausewitz in his *On War* declaring political means as a JV (382); Carl Schmitt in his *Theory of the Partisan* touching on the peace-is-the-end JV (9), on the JV of occupying power (27), on war regulations as JVs (36), on self-defense as a JV (43), and on absolute enmity as a JV (52), and his *Concept of the Political* being as a whole a JV, in particular on the impossibility of political JVs except for self-preservation and self-defense (49); Arendt in her *On Violence* writing on the need for JVs (51, 79) and on the distinction between justification and legitimacy (52); Sharon Korman, in her *Right of Conquest: the Acquisition of territory by Force in international Law and Practice*, referring to a variety of things that could be seen through JV lenses, such as "mission civilizatrice" as a JV (57), manifest destiny as a JV (58), threat to peace as a JV (75) aggression as a JV (90), strategic security as a JV (170-74), decolonization as a JV (267); Frantz Fanon in his *Wretched of the Earth* shedding light on the *re*-humanization from violent dehumanization as a JV; Simone de Beauvoir in her *Ethics of Ambiguity* expounding on the expansion of freedom as a JV; Malcolm X in *By Any Means Necessary* advocating for the response to oppression by any means necessary as a JV.

[132] Some of these I have just noted. Here are yet more examples: Richard Wasserstrom in his "On the Morality of War: A Preliminary Inquiry" on violating treaty and thus on treaty as a JV (87); Korman on the right of conquest as a JV such as the institutions of trial by battle or trial by conquest (11), balance of power as a JV (75), the Mandate System as a JV (142), or the League of Nation as a JV (143).

Aren't they just some human ways of making sense of reality or of ordering our world? Furthermore, aren't they just some ways of trying to recognize, to learn to distinguish what is natural, what is inevitable, what is thus amoral—even if appearing to be immoral, unfair, unjust—from what is morally agential, what is dependent on human actions, what is open to moral examinations and evaluations, what is within the realm of justice? The views expressed by these discourses are trying to describe and explain; they are not trying to justify. No justification is offered because none is needed or called for.

In the rest of this section, I try to reply to this objection as well as to show how a JV perspective helps to explain the way in which M→R can still obtain as a JV. Whatever other taxonomies these kinds of views fall under, they, additionally, can be classified perspectively as tacit justifications for violence. Thus to classify a story or a theory or a saying as a tacit JV is not to reduce its significance and meaning to its being solely a JV, but rather to show its additional justificatory role. This JV perspective is not obvious given the primarily traditional, cultural, religious, philosophic, or scientific role of these views. As accounts of reality, these views either do not seem to fall within the realm of human responsibility and thus of justice (for example, when they seem to merely describe or explain nature) or seem to have clearly established (in the case of some of them, for millennia) that they are either expressions of or in accord with justice. Thus it would appear that with respect to them, justice is not at issue. Yet it is, nonetheless, revealing that many such views seem to inevitably try to demarcate the natural from the normal realms, for in their very attempt to do so, they end up implying that such demarcations are not obviously natural and thus that justice might still be at issue. In any case, what follows is not a reduction of all these views to justifications but rather an

indication of their potential justificatory role: the method is thus not reductive, but perspectival, not cynical, but critical.

Examples of these kinds of tacit JVs—that is, of myths, stories, theories, accounts, and so on, functioning *as* tacit JVs—(and there seems to be an indefinite number of such examples), include the following: theories of natural law or natural rights,[133] philosophies of history,[134] myths, appeals to scripture, predestination, providence, trial by battle, right of conquest, appeals to authority, ancient rights, divine rights of monarchs,[135] the White Man's Burden, Manifest Destiny, *mission civilisatrice*, the League of Nations, the Mandates System, balance of power, war regulations, threat to peace, *Pax Romana*, peace & order, law & order, a new world order, national security, *raisons d'état*, national interest, official power, self-defense, humanitarianism, democratization, liberation, just punishment, just revenge, blaming the victims, patriotism, loyalty, the *Declaration of Independence*, the right to revolution, labor theories, saving women, necessity, efficiency, *realpolitik* or *machtpolitik*, and so on.

[133] See, e.g., A. P. d'Entreves in *Natural Law: An Introduction to Legal Philosophy* or Mark Murphy's "The Natural Law Tradition in Ethics" entry in the *Stanford Encyclopedia of Philosophy*.

[134] Kant's and Hegel's philosophies of History, with their providential strain tend towards JVs; they are then followed by Marx's philosophy of history and all subsequent Marxian interpretations of history, e.g., Merleau-Ponty's *Humanism and Terror* justifying the violence of the trials of counterrevolutionaries under Stalin.

[135] Bodin's "The king can do no wrong" (quoted in McIlwain's "Sovereignty Again" (266))—echoed in Richelieu's kingly prerogative, following in the tradition of M→R, with the king taking the place of God on earth, as God's delegate and through God's authority—has been challenged throughout history, but no more directly and in a timely fashion than by Paine in his *Rights of Man*: "When it is laid down as a maxim that *a king can do no wrong*, it places him in a state of similar security with that of idiots and persons insane, and responsibility is out of the question with respect to himself" (*Common Sense* 106)—responsibility as well as any need for an additional and a legitimate JV.

And then there are clichés and euphemisms[136] and slogans and sayings—including, of course "Might makes right"—that can function as JVs: for example, "The war to end all wars," "The war to make the world safe for democracy," "All's fair in love and war," "To the victors belong the spoils," "War is hell," "Everything happens for a reason," "It was meant to be," "It's only natural," "The bad guys," "Naked aggression," "My country right or wrong" (a peculiar one—that!), "Too big to fail," and so on—the list, it would appear, could go on indefinitely.

This perspectival method runs the risk of falling prey to Whitehead's warning about one's hammer as one's sole tool—if all one has is a hammer, everything looks like a nail—hence, if all one wears are JV lenses, everything looks like a JV. This is a worthwhile risk to take because the purpose is not so much to persuade others that anyone of the listed JV characterization is correct—except, of course, M→R as a JV—but rather to encourage and invite others to think about the possibility of such tacit JVs as well as about their actuality, their silent manifestations. Indeed I would hope that others would point out other such JVs and come up with their own lists. Thus looking at various forms of expressions and institutions through JV lenses can teach us new things regarding our views on violence as well as on ourselves as agents. It can also help us to continue thinking or at least not to permit us to stop thinking: for our thinking is often hindered or aborted not only by clichés, as Arendt critically reminds us,[137] but also, and more generally, by JVs, especially tacit JVs. Indeed the purpose in examining and in asking others to examine our JVs follows from the detrimental effects these can have on our

[136] For clichés, see note below; for euphemisms and catch phrases, see Arendt in *Eichmann in Jerusalem* (85-86, 105, 108).

[137] For Arendt on clichés**,** see *Eichmann in Jerusalem* (33, 48-49, 52-55, 131); for a contrary view, see Amossy's "Argumentation in Discourse: A Socio-Discursive Approach to Arguments" p. 261.

thinking: they can either prevent us from thinking more deeply and more critically about our violence or, worse, stop us, in particular situations, from thinking about our violence altogether. Fortunately, however, it is also in the nature of JVs, paradoxically, to re-awaken our thinking when they are re-deployed and re-asserted because their very logic calls for our critical thinking in order that we may re-evaluate them. Let's take, for example, our American Hiroshima JV: although it has functioned in quieting our thoughts, it has the potential for re-awakening them anytime it is re-offered, often to new members of our community, especially members of new generations. This potential, nonetheless, is in constant danger of being overwhelmed and overridden by a JV becoming a cliché and thus acquiring the kind of stability, solidity, or rigidity that makes it seem sound and thus may keep us soundly asleep, morally—hence the need for a constant, continual vigilance, one that might be accomplished by looking at human expressions, institutions, inventions, and other such creations through JV lenses.

Let's see now how this examination of the notion of a tacit JV can reveal that with JV lenses one might clearly see that and how the saying "Might makes right" can function as a JV, function tacitly so. Indeed, if it is not impossible, then it seems improbable that definitions of abstract concepts, especially ones regarding human actions, or descriptive explanations of the ways of the world can remain ineffective regarding the actions of those who believe them. Definitions and explanations are highly likely to affect actions partially by justifying them either explicitly or, what is relevant to tacit JVs, implicitly. This probable phenomenon can occur with myths or theories or sayings or beliefs or institutions, institutions that are social or political or professional such as the

ones that seem to legitimize the institutional powers that are open to being abused.[138] This likely effect is the essence of the functioning of tacit assumptions, tacit reasoning, and thus tacit JVs: if one believes that a proposition *p* is true regarding human actions as well as the ways of the world, then it is highly likely that as one acts, one will be affected by this belief, with the relevant effect here being that one will *implicitly* feel justified in acting in accordance with *p*.

It should be clear then that the normal way M→R plays a justificatory role is tacitly. Hence, it is the one I am focusing on, particularly on those kinds of cases regarding almost all of us who do not explicitly appeal to M→R as a way of the world yet, given M→R2, believe that it is such a way, not realizing that by believing it, even if only partially—precisely, in those M→R1 situations that appear to fall under the category whose intension is M→R2—we are likely living according to M→R1 by equivocating, by slipping from M→R2 to M→R1, and thereby tacitly justifying almost all our ways in almost all our days. Unfortunately, this kind of tacit thinking can also affect collectives. The negative collective effects of this tacitness of JVs can be seen, furthermore, when viewed from a political perspective.

8. The Effectiveness of Tacit Consent

There seems to be a significant problem with treating M→R as a JV: if a typical JV takes the form of an argument or of an account offered by some in order to make their actions just, in order to show that their actions were or are justified and thus not unjust, M→R does not seem to fit that description very well any longer. With very few exceptions, almost no one nowadays politically does or dares to offer M→R as a JV.

[138] I examine below the phenomenon of abuses of power, beginning in sect. 11 of this chapter, resuming in ch. III, especially in sect. 2 and 3, and concluding in ch. V.

Who would dare to say today that our might made our actions—no matter how violent, no matter how apparently unjust and unjustifiable—right or just? Who would, like the Athenians of old, dare to say to their Melians of today: "We are mightier than you and so you must rightly do as we say, must rightly come under our power?"[139] Who would link might to right except in offering M→R as an account of their enemies' evil motives and violent ways? If one dares relate might to right, regarding one's own people and its own ways, doesn't one typically do what, for instance, President Obama did for us U.S. citizens in his Afghan surge speech, namely, invert M→R: "We will go forward with the confidence that right makes might"?[140]

If M→R is no longer, for all intents and purposes, explicitly offered as a JV, what does one gain then in examining it as such? Why is it beneficial to pursue such an examination in the political realm when M→R primarily plays the role of a JV only tacitly? To begin with, as just shown in the preceding section, JVs even when tacit can play a sanctioning role in one's thinking and thus one's thinking need not be expressed in order for it to affect one's views and thereby one's actions: that is, tacitly thinking that

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[139] As noted, Thucydides' Melian dialogue (400-08) is one of the most referenced parts of his *Peloponnesian War*. An insightfully relevant reference is Simone Weil's, who, quoting the last sentence of the epigraph in ch. I, analogically interprets the point thus: "Like a gas, the soul tends to fill the entire space which is given it. A gas which contracted, leaving a vacuum, this would be contrary to the law of entropy. . . . Not to exercise all the power at one's disposal is to endure the void. This is contrary to all the laws of nature" (*Gravity and Grace* 55).

[140] On December 1, 2009, at West Point, President Obama explicitly stated this inversion of M→R in his presentation of his Afghan military plan: "Remarks by the President in Address to the Nation on the Way Forward in Afghanistan and Pakistan." (I return to these remarks in ch. III.) On August, 31, 2013, regarding the decision to attack Syria in response to its military use of chemical weapons, President Obama repeated the inverted formulation: "we lead with the belief that right makes might—not the other way around"—thereby confirming that the earlier reference was no aberration ("Statement by the President on Syria"). There is further evidence of the on-going relevance of M→R, as, for example, the following title of an article published in 2007 reveals: "Might Makes Right or Right Makes Might? Two Systematic Democratic Peace Tales." The authors, Harrison and Mitchell, characterize capabilities of states as might (5) and address the possibility of the legitimacy of certain kinds of M→R such as the intervening might used to socialize or democratize (13, 17) (cf. kinds of tacit JVs above). A more recent example is John Linarelli's 2009 article "When Does Might Make Right? Using Force for Regime Change"; Linarelli's concluding sentence is terse yet clear: "Might does not make right" (358).

one's doing x is justified is sufficient to motivate one to do x. This kind of implicit thinking does not require one to express one's justification, that is, to express one's thinking as a justification. This kind of justificatory functioning is the case for both individuals and collectives; thus it affects the actions of both, including the ones that are politically relevant such as police or military actions. In this way, tacit JVs can lead to actions and thereby to individual or collective violence.[141] Thus M→R still obtains and resonates today even though it is more likely to be a tacit resonance.

Furthermore, democracies partially rely on and are founded upon tacit consent: *qui tacet consentit*—who keeps silent consents. This tacit consent plays a role in the general governing process and the exercise of power by those in power, as well as in the particular police and martial actions within and between states. For example, we as citizens of democracies are led and driven into war, in most instances, with our tacit consent; along with this alleged consent, comes some underlying tacit JVs, including M→R.[142] Finally, that M→R can find its way into a president's speech, in this new millennium, even if in an inverted form, reflects its continuing influence, its persisting presence—inversion is, after all, not absence—that, furthermore, M→R can still characterize the ways of enemies reveals its persuasive persistence and can teach one that it is still a potent saying, capable of justifying the ways of one's own people.

[141] I develop this reasoning below, especially in the chapter on thinking and acting, ch. IV.

[142] As explained above, in the "Not Just Thinking" section, although this examination focuses on thinking, it does not exclude the effects of other factors such as the fear of not conforming to the ways of one's people or of opposing the ways of one's government, etc. I examine further the relation of M→R to war in ch. III.

9. Anthropodicy

In the theological and the philosophical traditions of the West, some of the most significant justifications have been the ones regarding the problem of evil.[143] Theodicies have been offered in response to this problem: they are, literally, justifications of God's ways. Given that God is all-good and all-powerful and all-knowing, everything God wills must be good and thus justified. From the perspective of justification, the tradition of voluntarism takes this view to its limits.[144] It is not the case, according to this tradition, that God only wills good because it is already good; rather, whatever God wills is good because God wills it: God determines what is good by willing.[145] In this tradition, M→R describes and justifies God's power with recourse to God's will, and M→R *only* applies to God the only omnipotent, omniscient, omnipresent, omnibenevolent, omnibeneficent being. Thus voluntarism holds that it is only God's might that makes right.[146]

Since in its activities each people sees itself as all-good and its enemies as all-bad or evil or even as inhuman in contrast to its own humanity, it too justifies its ways. This

[143] See e.g., Adams' *The Problem of Evil*, Lara's *Rethinking Evil*, or Mathewes' *Why Evil Exists.*

[144] As its name indicates, voluntarism focuses on the will (*voluntas*) of God. This tradition has much to say about this will; this examination's focus on the notion of justification, however, limits the references to this tradition to its views on M→R.

[145] Maimonides, in part III, ch. 26 of his *Guide to the Perplexed*, refers to the two schools of thought regarding the founding biblical law "upon wisdom or upon the will alone" (*Ethical* 138). See, e.g., Duns Scotus and Williamm of Ockham on "the primacy of the will" (Knowles 281, 295): "Acts are not good or bad of themselves, but solely because they are commanded or prohibited by God" (295). See *Reason and Faith: Philosophy in the Middle Ages*, Lecture 20, by Thomas Williams. See also A. P. d'Entreves on voluntarist ethics in relation to natural law (68-70). As for critics of voluntarism, such as Socrates (anachronistically), Leibniz and Kant, see below.

[146] To a variation of the question from Plato's *Euthyphro*, namely, "Do the gods love the right because it is right or is it the right because the gods love it?" reformulated for monotheism as, "Does God love the right because it is right or is it the right because God loves it?" the voluntarists would answer that the right is right because God loves it.

justificatory perspective can be termed an *anthropodicy*.[147] An anthropodicy is thus a justification for a particular people's human ways in light of the evil that surrounds this people.[148] Hence the evil ways that seem to be related to a people's actions, even violent actions, are considered not its own but rather its enemies': each particular people only does what is good and right, while they—its enemies—are the cause of any of the evil that appears as a result of the people's fight against them. From the perspective of the members of any particular people, one's people's might makes right.[149] This anthropodicean perspective may include allies, neutral people, and even some potential enemies, but not actual enemies, actually evil enemies, inhuman enemies.[150] An anthropodicy thus become a secular version of a people's theodicy.

But aren't a people's enemies humans too, some might ask, and thus can't they too justify their ways with their own anthropodicies? Of course, from the perspective of a people—just like with the old saying "God is on our side"—anthropodicies are only

[147] The first usage of this term that I came across—and this was after I had already "coined" it (the quotation marks indicating my belief that I had indeed coined the term) while I was examining theodicies, in particular Hegel's views on it in his *Introduction to The Philosophy of History* (15-18)—is Ernest Becker's usage in his *Structure of Evil*. His usage of "anthropodicy" as a secular theodicy is slightly different from and broader than mine: he is looking for a justification for human actions as good actions, for all humans, for humanity (see e.g., pp. 18, 24-25, 45, 107, 310). In "Anthropodicy or Theodicy? A discussion with Becker's *The Structure of Evil*" Frederick Sontag explains that anthropodicy's basic premise is the possibility of the elimination of evil: "Only if all the human capacities we can explore are good can anthropodicy succeed" (273-4). I intend "anthropodicy" as a JV by a particular, exclusive group of humans who consider themselves the only true humans, in the sense of the only truly good beings as against that group's enemies, enemies that are not truly humans after all in that they are essentially not good, indeed, evil—cf. Reagan's characterization of the USSR as The Evil Empire.

[148] This general characterization of a people does not preclude that some members of a people might reject their people's anthropodicy, considering it illegitimate. There can be dissenters, Socrates-like gadflies or Nathan-like or Amos-like critical prophets, speaking truth to power. This kind of dissenting does not eliminate the persuasive force of anthropodicies due to their popular acceptance as an essential aspect of a people's ethos.

[149] For U.S. citizens, say, there is the anthropodicy of American exceptionalism. I examine this phenomenon in ch. III.

[150] Again, although this strange kind of dehumanization of a group of beings—beings that might have, at one time, not been considered inhuman because they were not considered enemies—seems to call for cynical explanations, the fallacy-based explanation avoids any references to or dependence on cynicism.

legitimate for it precisely because this people sees itself as representing humanity and is thus the collection of true humans.[151] A people's habit of dehumanizing its enemies has significance in this regard, for by permitting the particular people to see itself as the collection of humans, it reveals it as the only one permitted to justify itself with anthropodicies.[152] I am, of course, presenting the absolutely exclusive perspective—just as typical theodicies are presented in the context of the exclusively absolute goodness and power of God—in order to magnify this kind of extreme anthropodicean point of view in the hope of making it more easily examinable.

An anthropodicy thus can be a manifestation of M→R as a JV. It can be a clear manifestation of a particular people's might making right, a manifestation of a people's sense that its might does indeed make right. It is not normally, however, a people's cynical expression of a people's rationalization; it is, for the people offering it, its genuine and ingenuous, though uncritical, expression of the justification of this people's ways, seeing itself as a collection of human beings and hence as worthy of an anthropodicy, just as theologians non-cynically expressed in their theodicies justifications of God's ways.

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[151] I am reminded of the movie *Little Big Man*, in which the members of the Native American tribe that adopts the white boy call themselves the Human Beings, the *only* human beings. Again, anthropodicies *only* apply to one's own people—the only human beings. Cf. the interpretation of Greek myths in which a battle between a hero, like Herakles, and wild animal or monster is taken as the Greek's humanizing of foreign, wild lands with their beast-like peoples (*Classical Mythology* "Lecture 16: The Greatest Hero of All").

[152] In *A History of Warfare*, Keegan, trying to explain how it was possible for Clausewitz, given all his extensive war experience, to "find the horrors of the Cossack pursuit of the French so particularly horrible" and why Clausewitz' "feelings ought indeed to have been hardened" points out what seems obvious, namely, that "we rationalize and even justify cruelties practised by us and our like while retaining the capacity to be outraged, even disgusted by practices equally cruel which, under the hands of strangers, take a different form" (8-9).

Thus, with this apparent "neologism,"[153] I try to show how a kind of secular theodicy can manifest a people's M→R as a JV: just as a theodicy is a justification of God's ways, so too an anthropodicy is a justification of a people's ways, especially a people's apparently unjust, violent, evil ways.[154] An anthropodicy permits a people to find a proper place, a harmonious place for the evil that surrounds its actions within its natural and normal cosmos.

10. Order Making

As indicated above, a declaration of *peace & order*, *law & order*, or a *new world order* can be seen as a tacit JV, and JVs are inherently order making. When we humans implicitly offer JVs in all their various forms—myths, stories, theories, accounts, arguments, explanations, sayings, and so on—we are not only making our ways just, but also ordering our ways so that they appear as being in harmony with the cosmos, with the moral cosmos.[155] This ordering can help a particular people to make sense of its ways, to insure that all is right in the world, at least in its world, where morality reigns, even when others'—especially, its enemies'—worlds are chaotic and immoral and full of intentional evil deeds.

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[153] See this section's note above regarding Becker's use of "anthropodicy" and my belief that I had coined the term as well as our different meanings. Again I use quotation mark to indicate that although this term is not a proper neologism, its definition in this examination is new.

[154] For the particular people, its evil ways are only apparent; they do not reflect the people's true identity, which only a proper interpretation—an anthropodecean interpretation— of its actions can reveal. In a parallel extension of theodicy to anthropodicy, an *anthropophany*, as a secular extension of a theophany, is a people's revealing its true identity in its actions properly interpreted. Anthropodecean interpretations show that the evil of the people's actions is merely apparent rather than real evil. Cf. various forms of the popular saying normally offered when bad yet apparently representative actions of the members of a people (e.g., the actions of Americans at the Abu Ghraib prison) are being both acknowledged and rejected: "This is not our ways; this is not who we are."

[155] Cf. The genesis of justice (*Dike*) in Greek mythology as the daughter of Zeus and Themis, whose name means right-order (see note above).

Is there then a relation between making sense and making right? There is a relation between "right" and "correct" (literally, to make right *with*), and there is a relation between making sense and correcting or rectifying (literally, making right) or adjusting (literally, moving towards the just or the right).[156] Hence, etymologically, it would appear that given M→R2, M→R as a tacit JV helps a people not only to make its ways right but also to make sense of its ways in the context of the ways of the world. Thus following the secular logic of anthropodicies, this making sense of a people's ways seems to be a kind of creating of order—a creating of a moral cosmos. Therefore, looking at M→R as a tacit JV additionally from the perspective of a people's order-making characteristic magnifies its alleged making of right—that is, a people's unintended and unwitting establishment of justice through force, the mistaken making of right by the misuse of might.

11. Abusing Powers

> It is an eternal experience that each person who has power tends to abuse it.
>
> Montesquieu[157]
>
> All power by its nature tends toward despotism.
>
> Diderot[158]

[156] This kind of correcting and rectifying and adjusting calls for a set of standards. Now etymologically, the term "ruler" as in the mon*arch—arche* meaning principle or ruling principle, and so on—is related to "ruler" as in the instrument or the standard, as in what is *regular*, what is proper, what is natural, what is normal. Does this etymological analysis reveal another manifestation of M→R? The ruler, the one in power—whether an individual or a collective—thus naturally sets the norms, delimits the bounds of justice, establishes what is wrong and what is right.

[157] Thus writes Montesquieu in his *Spirit of the Laws* (Richter 181). Since all humans have some power, I take Montesquieu's point to be one that applies to all of us humans to some degree or other, though, as I point out below, I focus on the most ubiquitous abuses—the unwitting abuses.

[158] *Political Writings* (201)—Diderot is another thinker writing, in "Authorité Politique," *contra* M→R, *contra* the "law of the strongest" (6-7). I agree with his point regarding the nature of power, though, again, I would qualify the "despotism" with "unwitting" or some such equivalent qualifier for almost all instances of abuse that reveal the abusers' confusion rather than their corruption.

> [T]eachers. . . . consider themselves the happiest of men, particularly when they terrify their flock of trembling schoolboys with glowering expressions and thunderous voices.
>
> Erasmus[159]

> [I]t is possible for someone to do injustice without yet being unjust . . .
>
> Aristotle[160]

The phenomenon of abuse of power is so common that it is often taken for granted and thus left unexamined. Part of this neglect might be because its identification and significance seem to be obvious enough and sufficiently clear. Are not abuses of power identified as such, after all, precisely because they are obviously cases of abuse and not cases of the legitimate use of power? But is this really so? I wish to show that the typical cases of abuses—namely, witting abuses—are the exceptions and that there are many more common cases of unwitting abuses that are not normally considered as such but rather taken for granted as being legitimate uses of power. What is not obvious is that these latter kinds of cases make up the most normal manifestations of M→R as a tacit JV for all humans, as individuals or as collectives. After all, doesn't each person, each family member, each family, each organization, group, city, people, nation, federation,

[159] Erasmus in his *Praise of Folly* is referring to the ugly picture of tutors' abusing their power, of grammar teachers bullying their students—with the caption under a picture of a smiling old man caning the naked behind of a crying boy reading "The Happy Tutor" (51-52). With the actual flogging figuratively interpreted as abuse, this phenomenon can obviously be applicable to the current teaching profession as well as to many other professions. Again, however, the abuse is much more common in its unwitting form. Even through his accusatory sarcasm, Erasmus can be seen as recognizing the unwitting aspect of these bullies, who "are simply emulating the ass of Cumae described by Aesop" (51). "The ass," Erasmus notes, "dressed in a lion's skin played the bully till someone stripped off his disguise" (51 n. 8). I wish to point out that this stripping off of their disguises can be accomplished by the unwitting abusers themselves once they become aware of their abuses and recognize their folly and foolish ways. I return to this point below, especially in ch. V.

[160] In preparation for his examination of deliberate acts of wrongdoing, Aristotle in book 5 of his *Nicomachean Ethics* examines the unwitting kind of wrongdoing: "it is possible for someone to do injustice without yet being unjust. . . . So while he does something unjust, he is not unjust" (Sachs 1134a). For "one does injustice or acts justly whenever one does them willingly, but whenever one does so unwillingly, one neither does injustice nor acts justly other than accidentally" (Ibid 1135a).

international union have power and is thus prone to use it and, at times, thereby unwittingly abuse it?[161] If this is so, then one way to examine the logic of M→R as a tacit JV is to do so from this unwittingly abusive perspective.

But, some might ask, how can abuses of power be properly examined from the perspective of JVs? Even if cases of abuses of power are manifestations of M→R as the reality of the ways of the world, how are they also manifestations of M→R as a JV? In cases of abuses of power proper, don't the abusers usually remain silent, feeling no need to justify their uses of power? Or if they do speak, don't they refer to the legitimacy of their power, but never appeal to M→R in order to justify their actions? How then can an examination of abuses of power be relevant to or a part of an examination of M→R as a JV?

To reply, I first need to clarify my interpretation of the concept of abuse of power. I greatly increase its extension, by interpreting abuse of power as including even those cases in which neither the abuser nor the abused is aware of the abuses; indeed, these are cases in which not even most other parties, including close-by observers, see or notice the abuses. Given that an instance of an abuse of power always involves, at a minimum, an

[161] Aside from those thinkers concerned with M→R *per se*, there were those who addressed explicitly the issue of abuses of power. Here are some of them. Herodotus referring to absolute abuses of power (247-48); Aeschylus alluding to it in *Prometheus Bound* (66); Plato referring to it in *The Laws* (777); Anselm in his "On the Fall of the Devil" relating the fall to abuses of power (232); Maimonides, presaging many, including Nietzsche and Freud, talking of the "quest for domination" (116) and pointing to the corrupting tendency of political power (120), which I see as just one example, though obviously a major and visible one, of abuses of power; Calvin in his "On Civil Government" (64). Leibniz in *Codex Iuris Gentium* recognizing that "the most powerful do not respect tribunals" (183), if read also figuratively, this covers much ground; Burke in *Vindication of Natural Society* speaking of unnatural and unbounded might as corrupting (23-24) and in his "Thoughts on the Present Discontents" referring to abuses of power (255); Wollstonecraft in her *Vindication* referring to abuses of power (96), divine rights of husbands (128), and lamenting that abusive power has ruled so far, "Brutal force has hitherto governed the world" (123); Mill in *The Subjection of Women* trying to explain what is behind some abuses of power, "using power, merely to enliven the agreeable sense of possessing it" (48), and in his *On Liberty* pointing to the majority's potential for abuses of power (4). See also the historical context above in sect. 3.2 of ch. I; I return further below to this phenomenon, in ch. III sect. 2 and 3 as well as in ch. V.

abuser and an abused, there are four possibilities regarding their awareness:[162] (i) both parties are aware of the abuse, (ii) the abuser is aware while the abused is not, (iii) the abuser is unaware while the abused is aware, and (iv) neither is aware. Cases (i) and (ii) are the most obvious, most typical cases that people have in mind when referring to this phenomenon, but also the most rare kinds of cases.[163] If these were the only kinds of cases, then it would seem that abuses of power could not be easily or obviously interpreted as JVs.

First, even in the cases in which the abusers are aware of their abuse, they might, nonetheless, be affected by M→R in its explanatory role and thus also in its tacitly justificatory role since the abusers might well think that their witting ways are merely the ways of the real world, most likely thereby unwittingly tacitly justifying their ways. Or they might wittingly and explicitly feel justified by M→R, though they might not say so, perhaps thinking as follows: "Yes, what I'm doing is considered an abuse of power, but that's because most people are too naive to recognize and too foolish to accept the real ways of the world. Might makes right is the way of the world, and I'm merely living

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[162] This is assuming that there are truly aware abusers (see the note on weakness of will below) and that one's awareness of one's abuses implies one's acceptance of one's uses *as* abuses and that one's unawareness of one's abuses implies the possibility that one would offer a justification were one's uses of power challenged or characterized *as* abuses.

[163] Do these cases fall under the concept of weakness of will, what the Greeks called *akrasia*: the abusers are aware that they are abusing but do it anyway? Interestingly, Aristotle, in book V, ch. 9 of his *Politics*, extends the concept from the individual to the collective *akrasia*: "[I]f weakness of will indeed exists in a single individual, it also exist in a city-state" (1310a15-20). Given Socrates' views that virtue is knowledge and vice ignorance, he, as Aristotle points out, does not accept that there is such a phenomenon as *akrasia* and thus that there are such weak and witting abusers, and I tend to agree with him but will not try to demonstrate that ultimately some kind of ignorance and unawareness is in play. If there are truly weak and aware abusers, then since I am focusing on the unwitting living by M→R, cases of *akrasia* seem to fall outside or on the margin of the focus of this examination. If one is aware of the wrongness of one's use of one's powers and nonetheless uses them from weakness of will, then one seems to be abusing powers wittingly, at least to some degree, and thus falls in the class of the aware abusers, a class that, if it exists at all, has, I think, a much smaller extension than the class of unaware abusers—the class that I focus on. I return to *akrasia* in my concluding chapter.

according to this reality principle." This kind of thinking might itself be yet another manifestation of an unwitting living by M→R: the abusers being so affected by M→R2 as to ultimately not really recognize the true nature of M→R1.[164] In any case, those who wittingly and openly abuse their powers seem to be almost as rare as those who wittingly and openly appeal to M→R to explicitly justify their actions.[165]

Second, the (i) and (ii) cases are neither the only kinds of cases nor the more interesting and enlightening ones nor, furthermore, the more ubiquitous ones.[166] Cases (iii) and (iv) are the ones that I wish to focus on because, besides being the most ubiquitous ones, they are the ones that either might go unnoticed or might call for the abusers to offer justifications were their uses of their power challenged or characterized as abuses by either the abused or observers. In these kinds of cases, the abusers do not see themselves as such and are likely to offer justifications when their actions are challenged or characterized as abuses. One such kind of justification, as the objection acknowledges, might be that the abusers' powers are legitimate and thus that the abusers are not abusers but legitimate users of legitimately appointed powers, the legitimate powers of offices or institutions. This kind of justification depends on the legitimacy of the appointment as well as the legitimacy of the official or institutional powers: the power that flows out of

[164] I might be accused of begging the question and relying on self-sealing reasoning by turning every witting abuse into an unwitting one. I'm not, however, making the strong claim that there are no true witting abuses; rather, I'm challenging the interpretation that sees many more witting abuses than seems reasonable. I return to this issue below, primarily in the section on cynicism, in ch. IV regarding my assumptions and Socrates' rejection of willful wrongdoing, as well as in my conclusion.

[165] Although I am skeptical of the common understanding of intentional abuse or violence, in this examination, I am not denying the commonly considered kinds of witting abiding by M→R1, witting abuses of powers—that is, the commonly considered intentional violence. I am choosing to focus on a different kind of abuse, a different kind of violence—the unintentional kind, a kind that I consider as having greater occurrence and as being of greater significance than the commonly considered intentional kind.

[166] Evidence for this ubiquity comes, at least, from the law of large numbers: a large number of agents, an even larger number of uses of powers, so some uses are abuses simply by chance, etc.

the legitimate appointment to a legitimate office implies the legitimacy of its use. Ultimately and practically, however, this justification turns out to depend on the very possession of the power itself. Thus, unless otherwise indicated or challenged, the possessor's power is legitimate precisely because the power is possessed and hence assumed legitimately obtained as well as attached to the office or institution. For example, the teaching powers that a person acquires by being hired as a teacher are assumed legitimate because both the appointment and the powers of the institutional office are assumed legitimate.[167] In this way, the person who as a teacher possesses the institutional teaching powers might sometimes unwittingly abuse these powers, be confused by the very official possession of them, because these kinds of institutional powers are never nor can they ever be specified precisely enough so that it is always clear what the demarcation line is between a legitimate use and an abuse.[168] Thus the cases that fall under (iii) and (iv), in which the abuser is unaware, can also be cases of M→R as a tacit JV because the legitimacy of the possessed power, of the acquired might seem to justify the use and thereby hide the abuse.

The fundamental point is this. Whether the possession is natural or institutional, its very existence ordains the power, thereby bestowing on it an aura of legitimacy.[169] This legitimacy is, of course, conditional, but it is also and only conditional exceptionally

[167] I examine further the teacher example in ch. III.

[168] The more power is attached to an official position, the greater is the potential for confusions and unwitting abuses: e.g., a powerful political office, say, a U.S. senatorial office, might confuse the holder, here the senator, into tacitly assuming as legitimate uses of senatorial powers many abuses of them, unwitting abuses. Again, the focus here is on unwitting abuses, on the cases that fall under (iii) and (iv). Cf. divine-right monarchy (see above the notes on this kind of power).

[169] The etymology of "attribute" seems revealing of the power of possession itself, however the possession is achieved or whatever its source is: *ad- tribuere* means to bestow (*Merriam-Webster's*). Cf. "Possession is nine-tenth of the law."

so, in such a way that the default mode is that possession is considered sufficient grounds for legitimacy. Thus, possession of power implies, *ceteris paribus*, legitimate possession of naturally or institutionally legitimate powers and thereby the legitimacy of the use of the possessed power. In this way, the many naturally endowed or normally instituted mighty unwittingly bully, unaware that while they are either silent or, when challenged, declaring the legitimacy of their powers by explicitly appealing to their legitimate endowments or ordinations, they are simultaneously acting under the aegis of M→R, thereby tacitly justifying their bullying by implicitly appealing to M→R. Of course, unwittingly, they implicitly appeal to M→R2, but by equivocating, end up misapplying the principle in M→R1 situations.

Thus whether the power is ordained, appointed, or endowed, the key to unwitting abuses of power is the legitimacy that the very possession of a power directly[170] or indirectly[171] yet inevitably assigns to it—that is, *ceteris paribus*, possession of power ultimately implies legitimacy of power. This is the default mode, the normal mode, with illegitimacy being normally the exceptional mode. Normally, to possess a power is to be permitted to use it, or more accurately, not prohibited from using it unless explicitly prohibited—the prohibition is the exception, the permission, or better yet the lack of prohibition, the norm.[172] Our normal language use as regards institutionalized power—institutional might, official might, culturally or socially or politically or professionally established might, and so on—reveals this close link between possession and permission,

[170] This is the case for naturally endowed powers.

[171] This is the case for institutionally ordained or appointed powers, acquired from the powers attached to offices or embodied in institutions.

[172] I examine further this point regarding the notions of prohibitions and permissions in ch. III.

and thereby justification. The very meaning of political power or institutional power (in its narrow, official sense), for instance, seems to presuppose M→R2: what we mean when we refer to the power that a state or an official institution possesses is precisely that this power gives the state or the institution the right to use this power. When we refer to this power without qualifications, we tacitly assume its legitimacy. It is only when we qualify it as illegitimate or even as legitimate that we explicitly challenge or examine the tacit assumption—namely, that possession entails permission and thus provides justification—by challenging or examining either the appointment to the office or the powers of the office. Only then do we critically separate power from justice, might from right. Furthermore, how we talk about political or institutional powers affects how we think about non-natural powers more generally, including institutional powers broadly conceived, because the former, the specific kinds of powers, have paradigmatic force. Hence as we assume in our speech the legitimacy of political or institutional powers, we assume as well that unqualified powers are legitimate powers and thus tacitly appeal to M→R2 as a JV. Therefore, abuses of power can be manifestations of M→R as a JV in the kinds of cases in which either the abusers are made aware and thus appeal to M→R2 or the abusers are unaware and do not realize that they are tacitly justifying their ways by an appeal to M→R2. Both kinds of cases can end up being cases of M→R as a tacit JV, with abusers equivocating and thus misapplying M→R2 in M→R1 situations. Indeed, although it might seem counterintuitive to consider this abusive phenomenon as an instance of M→R as a JV, given that an abuse is not usually considered a justification, nonetheless, examining it as such can both teach us possessors of powers how we do as

well as should think about our uses of our powers and show us a way that might non-cynically explain our ways as the mistaken ways of unwitting abusers.

12. The Inherent Insufficiency of the Typical Cynical Explanation

> Now, no one goes willingly toward the bad or what he believes to be bad.
>
> Socrates[173]

> Every art and every inquiry, and likewise every action and choice, seems to aim at some good, and hence it has been beautifully said that the good is that at which all things aim.
>
> Aristotle[174]

An explanation grounded in cynical views on human nature cannot explain thinking that is both practically universal and ubiquitous unless the following implausible assumption obtains: Humans think cynically and act based on this cynicism almost all of the time. In fact, people do not seem to be doing either of these things. Appeals to JVs, especially implicit appeals to tacit JVs, seem to confirm this fact. Before examining this apparent confirmation, I would like to present some of my assumptions regarding cynicism. I do this because it might well be the case that cynicism, just like skepticism, is ultimately irrefutable. Of course, this does not mean that cynicism is thus provable or, let alone, the correct position. Indeed, both cynical views and the non-cynical ones run the risk of begging the question or even of committing the self-sealing fallacy or the No True Scotsman fallacy,[175] a perspective that is by definition irrefutable on its own ground since

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[173] This passage from the *Protagoras* (358d) is one of Socrates' formulations of his teleological principle regarding humans' acting. He seems to treat this principle as a kind of axiom, which might reveal the perennial issues surrounding it, including the cynics' skepticism of *the* good all ought to aim at.

[174] Thus Aristotle begins his *Nicomachean Ethics* (Sachs 1094a), apparently echoing more broadly Plato's Socrates' teleological principle.

[175] Any argument that essentially excludes the possibility of a refutation by eliminating *a priori* the existence of counterevidence runs the risk of committing the self-sealing fallacy. One version of this kind

it never admits any kind of counterevidence. Given this apparent *aporia*, before offering my attempt at a refutation of all cynical explanations of M→R, I need to expose my assumptions regarding cynicism.

I consider cynicism to be by definition aberrational. While it is normal for all to be cynical sometimes, it seems abnormal for all to be cynical at all times. If cynicism were normal, we would need, then, another term to capture the phenomenon of abnormal cynicism or of the aberrational negative perspective that the term cynicism currently tries to capture. The view that might makes right, I would like to show, is too prevalent, too normal, too much a part of everyone's everyday life to be explained away by appeals to cynicism.

Additionally, I see cynicism as a disease[176] and thus as affecting normally only a minority of people, even when there is an epidemic. The affected minority may well be a powerful one. Nonetheless, common thinking about JVs, especially that of democratic citizens,[177] seems to be non-cynical. I, of course, do not deny that anyone can be cynical at anytime, regarding any issue, in the same way that anyone can be afflicted by a disease. But just as this undermining of people's health is exceptional—because health is normally the larger background whether for the living individual or for the living majority of people—so too cynicism is exceptional, inherently so. This essay examines not the aberrational, but the normal.

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of argument takes the form of the No True Scotsman fallacious argument. It reasons thus: all true Scotsmen do x; this Scotsman does not do x; therefore, this Scotsman is no true Scotsman.

[176] Cf. In the *Republic*, Plato's Socrates' view of virtue as health and vice as disease (444e).

[177] I say especially democratic peoples because their kind of common thinking seems to be the most honest kind that one can find from among the varieties of human political and social organizations.

Furthermore, there seems to be some historical evidence of a kind of progress in JV offerings. This progress seems to be evidence for the non-cynical perspective regarding JVs. What once popularly functioned as a JV—say, Kipling's "The White Man's Burden"[178] or Social Darwinism—no longer does or even can do so: other JVs are called for instead. What might be learned from this phenomenon?

Some who think cynicism plays a significant role might offer this explanation. The perpetrators of violence know their own reliance on their powers and their rejection of the need for justifications for their actions. They, however, do not admit this and instead appeal to what would be considered morally legitimate in order to pretend both that they are trying to justify their actions and that they are abiding by the principle that only actions justified in commonly accepted ways are legitimate. So in the past, for those kinds of perpetrators, their JV might have been—say, "The White Man's Burden" or Social Darwinism—while today, their JV might be democratization or liberation or some such equivalent. But, the cynical explainers would add, it is all a pretense intended to deceive the people who believe in the need to justify. These unscrupulous agents consciously live by M→R1, don't believe they need to justify their ways, and cynically offer whatever justification the public would most likely accept so that they are thereby permitted to act as they wish to.

Viewing cynicism as playing only a minor role, I offer this explanation. The perpetrators of violence, wishing to act in accordance with justice and thus recognizing the need for justifying their actions, must be able to see their actions as being in

[178] That this saying expresses paternalism does not mean that it does not in this way function as a JV, as a tacit JV. Is it precisely because it does not function explicitly as a JV that it can function as a tacit JV. From this examination's perspective, this example of paternalism can be seen as a manifestation of unwitting M→R as illustrated (in ch. IV, sect. 3) by the unwitting abuses of power perpetrated by those taking "care" of those allegedly in need of caring.

accordance with a JV that is considered legitimate, at least, by the people they belong to, so they can no longer see their actions as justified by past JVs that no longer appear legitimate, but only by a current and still legitimate JV or by a new JV altogether. This kind of explanation seems to reveal a kind of moral progress, namely, the progressive rejection or abandonment of some JVs as no longer legitimate, along with the preservation of other JVs as still legitimate, but especially the acceptance of new JVs as now legitimate.[179] Furthermore, the kinds of JVs that I am focusing on are the ones that are unlikely to function as deceitful pretenses. It is in the nature of tacit JVs, in their very logic, that they cannot be pretenses for the agent affected by them because pretention presupposes intention and tacit JVs are inherently unintentional—that is, the agent is unwittingly justifying and thereby acting unawares of the justification.

Now from a cynical perspective, this alleged moral progress might be interpreted merely as a manifestation of M→R in its normal sense. That is, the mighty establish the norms, and so the norms change, but there is no progress in these normal transformations. What from the non-cynical perspective appears to be progress is really just more of the same,[180] a reality that can only be seen clearly from the realistic, cynical perspective.

I try to respond to this challenge below in my attempt at a refutation of the cynical explanation of M→R. For now, before continuing with the exposition of my views on and assumptions regarding cynicism, I would like to make the following point: that from the cynical perspective there really is no change—that, for example, "The White Man's

[179] Additionally, as I try to show above, even cynical offerings of JVs are better than no offerings and, furthermore, reveal their self-limiting nature. Even a cynical, disingenuous offering is better than none because the offering of any JV has the inherent potential of limiting power: even though in some cases it permits or legitimizes power, it never does so nor *can* do so absolutely, in the ways that uses of power with no actual or potential offerings of JVs can.

[180] As the French saying goes, "Plus ça change, plus c'est la meme chose."

Burden" is no different than democratization—might just be evidence of the self-sealing nature of this perspective, of its inherent question-begging nature.

Finally, I also see cynicism as a kind of disillusionment: "If there can be no perfect justice, then there must be no justice at all," the cynic seems to assume. From this perspective, the current cynic is one who once tried to examine the just life and justice more generally, but who gave up the examination, having been disappointed in this search for perfect justice over and over again, thereby becoming bitterly disillusioned and declaratorily cynical.

Cynics proper—whether they label themselves as such or characterize themselves as realists—would obviously not share my presuppositions or my views on cynicism as a kind of disease or disillusionment. They would challenge my characterizations, would characterize cynicism as the *real* perspective, the perspective that reveals the harsh reality that the non-cynic, like myself, wishes to ignore or worse tries to wish away by hoping that reality is otherwise, naively hoping that the ways of the world are not those exposed by the cynics.

In reply, I concede that my characterizations are likely no refutations, perhaps merely figurative allusions to a reality that differs essentially from the one that the cynics see and point to. The refutation that I now present is grounded in the highly likely self-contradictory nature of the cynics' expositions in all their variations because their very appeals to M→R either as explanations of the ways of the world or as deflationary definitions of justice almost always lead them paradoxically to simultaneously assume that justice is independent of might and, nonetheless, assert that justice is the making of

might. They end up with a reasoning that relies upon contradictories: justice is both dependent and *not* dependent on might.

To begin with, I can now address the question that I left essentially unanswered above regarding the possibility of escaping the paradox of M→R as a JV.[181] The question expressed the following point. Although M→R as a JV is self-contradictory, it seems that M→R can remain self-consistent if it does not play the role of a JV, but rather offers either a definition of justice or a description of reality. In this guise, M→R appears to escape the paradox of a JV. Here is the reasoning. It is granted that M→R as a JV is inherently self-contradictory, for in the very appeal to M→R in order to justify an action the following two claims are inevitably, even if implicitly, made: (1) justice is the making of might because might makes right, and (2) justice is not the making of might because justice is being appealed to independently of might in order to declare M→R a justification—that is, in order to show that the action at issue is just.[182] But appeals to M→R in ways that are other than justifying ways or for purposes that are other than justificatory do not refer to a pre-existing or might-independent justice and thus are not self-contradicting. Isn't it the case then that M→R in either its definitional or descriptive form *can* escape the paradox and remain self-consistent?

Although it seems possible for the definitional or the descriptive form of M→R to remain self-consistent, it also seems unlikely to remain so for long, for most appealers, in most situations—that is, although a self-consistent appeal to M→R is not a logical

[181] See sect. 5 of this chapter.

[182] This self-contradictory nature of M→R might explain, in part, its being rarely explicitly appealed to: as I indicate above, almost no one appeals to M→R *as* a JV, though some might appeal to it as a description of reality or as an *explanation* of the ways of the world, for example, IR realists, or the wolf in the fable of La Fontaine, or perhaps even the Athenians to the Melians.

impossibility, it is a practical improbability. Those who openly and explicitly appeal to M→R appeal to it either as a JV—unawares that by their doing so they are contradicting themselves—or as a definition of justice or as a descriptive explanation of the ways of the world, thereby apparently escaping the paradox. The latter two kinds of appeals, however, can always end up functioning as tacit JVs and almost always do end up functioning as such because although these appeals are intended to explain the ways of the world, it is highly likely that the explaining acquires a justificatory quality. This occurs because the line between an explanation[183] and a justification is not always a clear demarcation. Both try to offer reasons. What then distinguishes explanatory reasons from justificatory ones? The former refer to an accepted and a recognized reality and attempt to answer the following kind of question: "Why is x the way it is?" The latter refer to a reality whose very characteristic is at issue; they attempt to answer this kind of question: "Why should one accept the justifier's characterization of x?"[184] This difference, however, gets blurred in the realm of human action, in which the reality at issue could be otherwise. In this realm, an explanation might be faced with having to explain a situation whose characteristic needs to be argued for. In the process, the explanation begins to acquire the quality of a justification. The explanation, even if it is a correct explanation, nonetheless, ends up tacitly playing also the role of a justification. Therefore, in the case of appeals to M→R in its explanatory form, it is highly likely that those making these appeals end up justifying as they explain, thereby contradicting themselves. It seems to

[183] The generic term "explanation" refers here to all the different kinds of accounts—from stories to theories, from folk tales to sayings, and so on—that are intended to play an explanatory role, but that might end up tacitly playing a justificatory role.

[184] See, e.g., Gage's *The Shape of Reason* pp. 79-80.

be in the very nature of appeals to M→R that they either necessarily contradict themselves or probably end up doing so.

Of course, the mighty who silently force their ways and use their might to their advantage can avoid suffering from the self-contradictory nature of M→R as a JV. To escape this nature, they must either remain silent or when appealing to M→R insure that they appeal to it never in order to justify their forceful ways, but only in order to define justice or describe and explain the ways of the world. The obvious problem with the latter two appeals is that given the circumstances under which they are likely to occur, namely, in association with the forceful actions of the mighty, they are likely to function *as* JVs, thereby becoming self-contradictory.[185]

Therefore, even though M→R can when it functions as an explanatory description of reality obviously remain self-consistent,[186] the likely ways in which such explanations end up tacitly justifying the ways of those who believe them mean that ultimately and practically appeals to M→R whether they are explicit or implicit are almost always self-contradictory. If M→R offered as an explanation of the ways of the world almost always ends up tacitly playing a justificatory role, then the cynical explanation that M→R1 is a principle that describes reality is most probably self-defeating, almost always self-contradictory. Furthermore, if a self-contradictory account cannot be an explanation proper, the so-called cynical explanation is highly likely to be no explanation at all. Therefore, whenever it is referred to, the phenomenon of M→R becomes almost always

[185] It is in the very nature of this logic that anyone I refer to—including those who seem to be aware of the need for silence such as Schmitt—are likely, it seems, to fall into the self-contradictory trap of appeals to M→R, for even those who try to merely describe the reality of M→R run the risk of implicitly appealing to it *as* a JV and of thereby contradicting themselves.

[186] After all, if M→R is real, then it is necessarily self-consistent if self-consistency is an essential quality of reality. What are highly likely to be inconsistent are the appeals to this reality.

already a justificatory phenomenon[187] and thereby almost always already immune to cynicism.

13. Deflating Deflationary Views

As noted at the end of the previous chapter, the explanation that I develop next avoids the debate over M→R and addresses a different issue. It tries to show that and how, in spite of the long history of advocacies and refutations,[188] M→R can still function practically universally and ubiquitously as a tacit JV. The explanation is hypothetical; it is a hypothesis that can be tested by all those who wish to reflect on the use of their powers in relation to justice. It is an explanation that does not rely on cynicism but rather one that tries to deflate views that are cynically deflationary. It is not so much a refutation as a deflation of the views that might makes right.

[187] As I indicate above, a cynic would likely either reject this point or interpret the offering of justifications differently, say, as pretenses, and so on. In reply, I would reiterate that it is in the very nature of tacit JVs that they cannot function as pretenses for the agent or agents affected by them because pretending presupposes intending and because with tacit JVs there is neither an offer of a justification nor an intention to do so. This dialectic, nonetheless, might well leave each side more convinced of the correctness of its perspective and of the incorrectness as well as the question-begging nature of the other side's perspective. This *status quo* might ultimately reveal the implausibility, if not the impossibility, of refuting either perspective, with each side sealing itself off from the potential penetration of any contradicting proposition—a perennial standoff.

[188] This examination might show also why a final refutation is impossible given the reality of M→R2.

CHAPTER III

THE "MIGHT MAKES RIGHT" FALLACY FULLY EXPOSED

Having contextualized and characterized this examination,[189] I can now develop comprehensively the explanation outlined above.[190] I present the explanation in section 1 and illustrate it extendedly in section 2 and briefly in section 3.

1. Equivocation: Unwitting Self-Deception

Thus I return to the main focus of my essay, an examination of the thinking regarding the maxim "Might makes right" as seen from the perspective of justifications for violence. It may well be the case that M→R has been offered as an account of the ways of the world and as a deflationary definition of justice. It may well be the case, furthermore, that great thinkers have attempted to refute M→R. My focus is on examining M→R solely as a JV. I do not thereby deny its other roles, but only magnify its role as a JV in order to see better, more closely, and more critically what this role does and can teach us all—given that we all possess powers—about the uses of our powers as well as our thinking about abuses and violence.

1.1. In Silence — Tacitness in Action

If M→R is a purely descriptive doctrine, explaining the ways of the world, then it functions explicitly as an explanation and not as a justification; as shown in the preceding chapter, an explicit explanation, however, can, additionally, function as a tacit justification. Thus M→R's other roles do not preclude it from also playing a tacit justificatory role. Again, in the case of M→R, this latter role is problematic because

[189] See sect. 3 of ch. I as well as ch. II.

[190] See sect. 2 of ch. I.

M→R cannot function as a JV without contradicting itself. M→R as a JV would have to presuppose the independent existence of precisely what it is denying—namely, justice that is independent of power or right that is independent of might. If justice is solely the product of power, if right is only might's making, then one's appeal to M→R cannot be in the form of a justification of one's action, for that would be a self-undermining, self-contradictory appeal. The only possible self-consistent appeal to M→R is as a declaration either describing reality or defining justice; furthermore, this declaration must be made in the proper context, that is, in a situation in which an appeal to a JV is not called for, but, say, the nature of justice is being discussed.[191]

Some might accuse me of begging the question: Am I not assuming that M→R can function as a JV in order to show that M→R can sometimes do so tacitly? What independent evidence can I offer for this tacit functioning? Furthermore, having assumed precisely what I need to show, I point out how M→R cannot function as a JV without undermining itself, without contradicting itself. But, these objectors might add, there is no problem with M→R in its non-justificatory role, so there would be no problem if I were to simply avoid assuming that M→R can function as a JV.

Although it might seem that in order for M→R to function as a tacit JV, it must first be able to function as a JV simpliciter. In fact, it is possible for a line of reasoning or an account to be unable to function as a JV simpliciter—because it might not convince those hearing it, including the one offering it—and yet, nonetheless, still be able to function as a tacit JV—precisely because no one hears its dissonance. I do not and obviously cannot—regardless of the apparent circularity, but more substantially because

[191] See, e.g., Thrasymachus' definitional offering of justice as nothing other than the advantage of the stronger in book I of Plato's *Republic*.

M→R cannot do the justificatory work without contradicting itself—assume that M→R can function as a JV simpliciter. What actually supports my claim that M→R can function as a tacit JV is the independent line of reasoning already introduced—namely, that explanations (including explanatory definitions such as that of justice) can always already play a justificatory role because they can affect the actions of those who believe them. Part of this effect is that explanations can additionally function as justifications for the actions of either the believers or others observed and judged by the believers.

This challenge to the self-consistency of explicit appeals to M→R, even in its explanatory role, shows that M→R is likely to function primarily in silence,[192] and it can do this by functioning as a tacit JV. This tacit functioning is essential to the current explanation, an explanation that relies upon a fundamental yet unrecognized ambiguity at the level of principles. Here is this explanation's main line of reasoning. M→R can function tacitly as a JV because its fundamental ambiguity is not normally recognized. M→R as a JV practically obtains universally and ubiquitously because M→R's unrecognized ambiguity, given the proper conditions, can too easily lead to unwittingly fallacious equivocations.[193] Such unwitting equivocations help to explain how in misinterpreted situations the two principles are misapplied. The misinterpretations and misapplications reveal the essentially unwitting aspect of the pertinent experiences: those

[192] Another way in which the paradoxical nature of M→R can be manifested is by recognizing that it is a saying that may not be said, a saying that must be left unsaid lest the utterance be taken as a justification.

[193] Again, I am focusing on unwittingly fallacious equivocations and not on wittingly malicious ones, on self-deception and not on the intentional deception of others.

committing these errors are much more like passive victims partially suffering at their own hands[194] than like active agents consciously choosing to live by M→R.

Does this explanation presuppose Socrates' views on virtue as knowledge? (As the epigraph shows, Socrates claims that no one acts knowingly wrongly: virtue is knowledge; vice, ignorance.) Since many, including apparently Aristotle,[195] do not agree with Socrates that no one acts wrongly wittingly, some might thus object. As already noted in the preceding chapter, although this explanation seems to presuppose the Socratic position, it does not do so: it is asserting not that nobody lives by M→R wittingly, but that most instances of living by M→R are unwitting ones.[196] Furthermore, this explanation is not implying that realizing that one is living by M→R in a particular situation (or has been doing so in a certain kind of situation) necessarily means that one will change what one is doing (or has been in the habit of doing). It is sufficient to infer from this explanation that such a realization can and probably will lead to agents changing their ways—that is, that almost everyone in every situation would prefer to choose not to live by M→R. This explanation assumes that most people who are unwittingly doing wrong would choose to change their ways if they became aware of them.[197] Given the nature of fallacies or fallacious thinking, a focus on the fallacy of

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[194] I return to this point in my concluding chapter when I refer to self-inflicting harm that abusers can suffer as they abuse others. Note that the use of the passive voice is appropriate here.

[195] See Aristotle's qualified critique and concurrence in his *Nicomachean Ethics*, book III, ch. 8 (1116b); book VI, ch. 13; and book VII, ch. 2 (1145b20-30) and ch. 3 (1147b10-20).

[196] Although this examination's argumentative explanation is not going as far as Socrates' views, my own views on this matter are closer to his than to those argued for in this essay; they might even be the same as his, at least, as I understand them. (Cf. the analysis of violent actions in "A Nonviolent Perspective" in ch. II.) I am not sure that these views can be conclusively demonstrated. Socrates did not demonstrate them conclusively; he seems to take them as axiomatic. This examination only points in their direction without assuming them.

[197] I return to the issue of awareness and control in my concluding chapter.

equivocation implies anyone, anywhere, anytime might equivocate on the two meanings of M→R and thereby unwittingly live by M→R.[198]

1.2. The Ambiguity

Again, here are the two meanings of M→R. The first meaning (M→R1) is its common meaning, the principle that most people think of when they hear the maxim—namely, that what the strong do or can do to the weak is just, or, alternatively, what the relatively mightier do or can do to the relatively less mighty is inherently right primarily because of the greater might of the former. The second meaning (M→R2) is not the common one. It expresses, nonetheless, a fundamental principle that, with the proper qualifications, is tacitly assumed by all—namely, that one naturally or normally, by default, is permitted or, at least, not prohibited, unless explicitly so prohibited, to exercise one's might (in the sense of one's potential or power or capacity or ability or talent or intelligence or skill or knowhow or any other form of might as can do), and that thus this permission or lack of prohibition of exercise is just or right or, at least, not unjust.

M→R1 is ontologically secondary or derivative: it follows from M→R2, which is primary and originary.[199] In its essence, M→R2 expresses a fundamental principle of life, namely, that living as actualizing potentials is *ceteris paribus* permitted and thereby right or just, or, at least, not prohibited and thereby not unjust. Thus although M→R1 is not commonly shared since few accept that the will of the stronger determines what is right or wrong, M→R2 is generally tacitly assumed since it seems natural or normal and thereby right or, at least, thereby not against what is right for a potential to be actualized.

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[198] In the next chapter, especially in the section on fallacy theory, I develop further this point regarding the practically universal and ubiquitous quality of fallacious thinking.

[199] Cf. the classical notion of beings that appear first for us humans yet are not first in themselves, being first epistemologically but not ontologically.

How, after all, could it be wrong—under normal circumstances or in the absence of any explicit prohibitions—for one to actualize one's potentials or, to put it more relevantly, for one to use one's powers?

1.3. The Equivocation

Given then that an ambiguity, under the proper circumstances, can lead to equivocations—that is, to the committing of the fallacy of equivocation—what precisely is the equivocal thinking in the case of M→R? It is the misinterpretation of M→R1 situations as M→R2 situations and thus the misapplications of the second principle in cases in which the first principle is relevant and hence should be applied. One equivocates by misinterpreting a situation that should fall under the category of situations that ought to be ruled by M→R1 as if it were one that falls under the category of situations that ought to be ruled by M→R2. One misinterprets a situation in which applying M→R means applying the principle that the right action is the mightier ruling over the weaker (M→R1) as if it were a situation in which applying M→R means applying the principle that it is right for one to actualize one's potential (M→R2).[200] Almost everyone agrees that M→R1 is not a principle of justice. Yet the reason that after millennia of attempts at refuting M→R we humans continue to rely on it as a JV is that we are always able and thus always liable to equivocate. We unwittingly slip from the second meaning to the first. We thereby apply M→R2 in situations that fall under M→R1. We thus unwittingly justify our action by a tacit appeal to M→R.

[200] Cf. the normal process of perception as regards pattern recognition—an inevitable process of seeing patterns, e.g., the zodiac or ghosts images in photographs or the face of Jesus in naturally occurring forms, etc. In the equivocating kind of instances, it is the misinterpretation of a situation as having the pattern of the second-principle situation rather than that of the first-principle one. I return to the issue of pattern recognition in the next chapter, in the "Heuristics and Biases" section.

1.4. Equivocal Conditions

M→R's two senses, however, merely reveal a necessary condition for the possibility of equivocation. For this possibility to become a reality, other proper conditions must obtain. An ambiguity is a necessary condition for equivocation, but ambiguity by itself is not sufficient.[201] A reality, furthermore, can become practically universal and ubiquitous only under proper conditions that are themselves universal and ubiquitous. The ambiguity of M→R being inherent is such a condition, but what about the other proper conditions? There are many such kinds of conditions that could complement the ambiguity and thereby lead to equivocations. I present only some of the most prevalent ones as well as offer a general principle that is in play. These complementary conditions help to show why the misinterpretations of particular kinds of situations and the normal misapplications of the M→R principles can be so prevalent. Furthermore, they are general kinds of conditions, not peculiar psychological ones, personal preferences or tendencies, particular emotional states, or any other particular kinds of conditions. They are conditions that could, by complementing the ambiguity, lead anyone, anywhere, anytime to fallaciously equivocate and thereby to misapply M→R2 in situations in which M→R1 ought to apply thus ending up unwittingly living by M→R.

The complementary conditions come into being, either directly or indirectly, as a consequence of their originary relation to the primary and fundamental condition of M→R2 as a law of life. That it is right for any living being to naturally and normally actualize its potential is essentially the first and foremost complementary condition. The

[201] In the case of a malicious equivocation, the condition of intent to mislead or deceive others can, along with the necessary condition of the ambiguity, produce an equivocation.

manifestations of this condition can take on various forms; these many forms manifest this primary condition by appearing as various kinds of complementary conditions—as the universal and ubiquitous kinds. That there are so many complementary conditions—conditions that manifest themselves in various realms, including the social realm, the institutional realm, the political, the legal, the professional—should not distract us. We need to recognize that they are essentially direct or indirect manifestations of the one fundamental condition, namely, the natural and the normal permission or absence of prohibition regarding the actualization of potential.

1.4.1. Preliminaries — On Prohibitions

I begin my examination of some of the many complementary kinds of conditions by examining the nature of prohibitions. Prohibitions are exceptions. That power can be used unless prohibited reveals that the norm is the use of power. It reveals that the background of actual and potential actions that are presupposed permitted or non-prohibited makes possible prohibitions. That is, prohibitions are always and only salient because of the immense background of non-prohibitions. Thus the notion of non-prohibition makes possible the expositions of norms.[202] To put this in terms of set theory, prohibited actions are members of a proper subset of the set of all actions, a set that can form the universe of all actions both actual and potential. The set of non-prohibited actions can be the relevant universe of discourse that reveals the set of prohibitions; thus the number of non-prohibited actions is indefinitely greater than the number of prohibited ones. Therefore, it is always already assumed that the use of power is permitted or not prohibited unless it is explicitly so prohibited—non-prohibition is the default mode. The

[202] The saying "The end justifies the means" can teach us that normally means are permitted or, more likely, non-prohibited so that only in cases in which the means are questionable—that is, in exceptional cases—is this saying appealed to.

very saliency of prohibitions is made possible by the numerical immensity of non-prohibited actions.[203]

Some might say that not all norms or commandments or laws are prohibitive, and that, it is possible for a society to establish a system of norms or commandments or laws that contains a greater number of permissible normal or legal declarations than prohibitive ones. Yes, this could be so, but what about non-prohibitive actions, don't they always and necessarily outnumber prohibitive ones? It is impossible to document and thus to declare permissible all possible kinds of actions, even those already actualized and *a fortiori* all potential ones.

Thus manifested in all the many various realms—the natural, the familial, the social, the cultural, the institutional, the political, the legal, the professional, the collegial, and so on—non-prohibited actions always already establish the normal background on which the exceptional foreground of the prohibited actions can be delineated. There are many examples from these and other various realms or from combinations of them. In section 2, I examine comprehensively an extended example from war; in sections 3, I present brief examples from abuses of powers in other realms. In concluding this section, I focus on two kinds of complementary conditions that are prevalent. The first is closer to kinds of conditions that obtain within the natural realm; the second, to kinds of conditions that obtain within the normal[204] one. In both kinds of cases, however, the natural and the

[203] No wonder M→R survives under the aegis of the second principle no matter how often and how well it has been refuted or undermined in its first-principle guise. M→R is thus a perennial issue; of course, my focus is on the paradoxical issue that the same people who accept the refutations or deny that might makes right, nonetheless, live by it and tacitly appeal to it as a JV.

[204] On my use of "normal" see the note on "normal" vs. "normative" in sect, 1 ch. I.

normal intermingle, and the more complex the actions, the more complex the intermingling.

1.4.2. Basic Bodily Movements

An obvious and a significant kind of complementary condition flows from the nature of basic bodily movements. One *can* raise one's arm and thus, under almost all circumstances, one may raise one's arm. All such cases of powers of movement are easily translated into permissions of movements. I can walk, say, so I may walk. This is true almost all of the time, with exceptions being just that—exceptions. Indeed it is with the exceptions that one comes to notice most clearly the distinction between one's powers of movement and one's permissions to move, the default mode being the equivalency of powers with permissions or non-prohibitions, of can with may. It is when one is prohibited from moving—say, from getting up in a the middle of a lecture—that one is made aware of the distinction as well as of the prohibition's (moral or legal or institutional) power over one's own power of motion. Almost always, one's power and one's permission (or non-prohibition) to move are interchangeable and equivalent: they are indistinguishable. And of course, in almost all cases—namely, the ones that are without any prohibitions—one's permission or non-prohibition to do x translates into one's justification for doing x and thereby one's right to do x. In these cases thus doing x is right or just, or, at least, not wrong or unjust. Indeed, even in cases such as attending a lecture, for example, the prohibitions are always limited: they refer only to some bodily movements—such as waving one's arms wildly and distractedly—but not to a great many others—such as moving one's head up and down or turning it or fidgeting or twiddling one's thumbs. Even in the most restrictive and prohibitive situations, there are always a great many bodily movements that are not only not prohibited, but also not even

considered as falling within the realm of such prohibitions—that is, there are always bodily movements that are not prohibited and hence that are by default permitted. That the permissions or non-prohibitions inherent in bodily movements get extended or extrapolated to other kinds of activities—from relatively less simple ones to gradually more complex ones such as walking or running or more generally moving in space—seems to be inevitable. Thus unless prohibited from moving one's body in particular ways and in particular situations such as situations of trespassing prohibitions, one assumes that one is permitted or not prohibited to move one's body in space, to exercise one's powers of locomotion. How far do these extrapolations go? What movements or actions are misinterpreted through extrapolations as permitted or, at least, as not prohibited? Isn't it likely that some of these misinterpretations will be cases of equivocations, tacitly justifying actions that should fall under the category whose intension is denoted by M→R1—namely, the will of the mighty determining what is right—as if they were actions justified by M→R2—namely, one's right to use one's powers?

Some might object that a justification to act implies an ability to act and not the other way around. Furthermore, these objectors might point out that if one were to ask someone in a situation in which there was no established prohibition against arm raising, "Why do you think that you may raise your arm?" she would likely respond, "Because it's my arm, I want to raise it, and there is no law against doing that. Is there?" She would not likely offer as a justification, "Because I can." No one is likely to consider one's ability to raise one's arm as self-justifying; one would more likely consider one's ability as being presupposed by the very justificatory process: it is not because one can raise one's arm that one is justified in doing so, but rather precisely because one can do so, that one, in

some situations, might need to justify raising one's arm. Ability or might cannot justify itself; rather, it implies that its exercise might need to be justified. Basic bodily movements, such as the raising of an arm, thus do not reveal how M→R plays a justificatory role; rather, they reveal that a power cannot be self-justifying but must be justified by other means whenever a justification is needed or called for.

In a direct response to such a direct question as the one posed in the preceding paragraph, it is likely that the person questioned would answer and think along the lines stated there. This uttering and thinking reflex is unreflective and thus unlikely to reflect the way M→R can function; only upon further reflection, critical reflection, might one begin to see how one is, indeed, living by M→R because one is equivocating on its two meanings. First, does not critical examination reveal that justification does not necessarily imply ability since it is possible for one to be justified in acting and yet be unable to do so: for instance, in the case of self-defense in which the attacked lacks the power to defend herself against the attacker. Secondly and most significantly, M→R as a tacit JV is not merely might as a JV: it is not merely the might by itself *qua* might that justifies the action that it produces. It is rather the might-that-makes-right that does so. Thus when M→R2 functions as a tacit JV, it does so not because might justifies itself, but because some kinds of might—namely, the permitted or non-prohibited kind—are considered, by default, righteous kinds or, at least, not unrighteous ones. They are kinds of might-that-makes-right, kinds that transfer their righteousness to the actions they do or can produce.

But how can a not-unrighteous might make right, some might ask? How can a lack of unrighteousness produce the presence of righteousness? Assuming that a

righteous might can make right because it has this quality, how can a might that is not unrighteous produce anything more than a product that is also not unrighteous—that is, how can it, lacking this quality of righteousness, produce anything that is righteous? It would seem that a not-unrighteous might can make neither right nor wrong.

This objection gets, in part, at the heart of the issue and thus of this explanation. Actions[205] can be examined from two fundamental perspectives: the moral and the amoral. More relevantly, the former, furthermore, includes the perspective of justice and injustice, while the latter is a perspective that is neutral regarding justice. The amoral or justice-neutral perspective is in play whenever neither the morality nor the justice of an action is at issue.[206] In the context of justification, the proper perspective for actions is the perspective of justice. This explanation's extended sense of action calls for a shift of focus. Actions that would normally be considered justice-neutral need to be re-considered and treated as actions that ought to be seen from the perspective of justice. It is precisely this shifting of focus and perspective that is needed in order to see how equivocations obtain.

Equivocating agents act as if the kind of situations at hand make the relevant actions non-prohibited ones when, in fact, they need to be considered as potentially prohibited ones. A might can be righteous or not unrighteous—that is, neutral—depending on the situation. In some situations, equivocating agents unwittingly end up considering unjust actions as neutral actions (that is, as the product of a neutral, not unrighteous might) and thus not unjust because these actions would have been neutral in

[205] This examination relies upon a broad sense of action, which includes basic bodily movements, etc.

[206] This context seems to be rare because except in medical or merely physical cases, examinations of actions are practical ones, ones regarding actions' moral standing or relations to justice.

similar situations. In this way, they unwittingly misapply M→R2. This is the reason that from the perspective of M→R as a JV, all kinds of actions need to be critically examined regarding their relation to justice rather than merely assumed legitimate because apparently normally not prohibited. There is a need for constant vigilance, for on-going critical examinations and re-examinations of actions and their justifications in light of the likelihood that one is unwittingly living by M→R.

1.4.3. Merit

Another significant kind of complementary condition flows from the nature of merit or desert.[207] Merit is considered a just means for determining the distribution of goods. Thus merit can function indirectly as a kind of righteous might whenever a certain kind of ability is considered meritorious. In such cases, having a meritorious might or ability to do x translates into getting not only recognition for being able to do x as well as for doing x, but also the permission and thus the justification and thereby the right to do x. The reasoning that is based on might as a deserving ability flows from a meritorious might to a righteous one and thereby to the righteousness of the actions that are or can be produced by this might: in this way, both the actual and potential actions that flow from a meritorious-might get a sanction of righteousness.[208] For example, one's ability to play

[207] There are many variations on this theme of merit or desert, variously focusing on meritorious might as an ability that is natural or acquired or both. These include gifts, talents, skills, virtuosities, and qualifications.

[208] The justice of merit has a long history in the West; indeed in some senses of justice, such as the ones Plato and Aristotle examine, justice is closely intertwined with merit or desert: to act justly toward A is to give to A what is due to A—i.e., what A merits or deserves—because of A's proven ability or power, etc. Thus a just system is one that follows the principle of giving to each what is due to each precisely because of the ability of each. In this tradition, a meritocracy, which is the true or natural kind of aristocracy (literally, rule by the best), is considered the best expression of justice. Instances of merit as justice can be seen in Thucydides (145); in Plato's *The Laws* (890, 937), in his *Gorgias*, with Callicles defending a meritocratic system against a democratic one (see e.g., Latour ("Socrates" 195-99), Barney (16)), in his *Statesman* (292e-93e); in Aristotle's *Politics* (1279a10, 1282b25, 1284a5-20, 1293b10, 1302b10-15); in Cicero's *On the Commonwealth* (132 n. 70); in Maimonides (142-43); in Aquinas (174); and in Perelman's

basketball at a professional level better than others gives one the right to play at that level, and almost everyone accepts that player's desert, almost no one challenges that player's right—and certainly that player's right to play does not seem to be unjust. Thus, for instance, an NBA job as a distributable good is considered fairly offered to someone with the proper basketball skills, with these composing a meritorious ability—both the hiring or the offering of the job and the receiving of large earnings[209] are considered just. Another example of a merit-based condition, and there are indefinitely many such examples, is the right that a person has to a teaching job (another distributable good), a right that is ideally based on this person's proper ability to teach—a meritorious might.[210]

The justice of merit has a long history. Indeed, merit is one way to think about justice. Merit-based justice presupposes inequality, natural or acquired, at least regarding the standard of merit. The inequality of results is meant to reflect, at a minimum, the equity of a meritocracy, its fairness, as well as, sometimes, a kind of equality of opportunity.[211] Furthermore, since merit is derived from the ability or power or fitness to do x, the permission and thereby the right to do x follows necessarily given M→R2 as an expression of a principle of life, the principle of growth and development. One has a right, indeed even a duty, to actualize one's potential in order to live up to one's potential, to perfect oneself, in the sense of fully developing oneself. How could it not be

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The Idea of Justice (5, 7-8, 13-16, 18-22, 37-38, 41, 44, 54-56, 70, 74, 86, 173-74, 182, 184, 192), in his *The New Rhetoric* (132, 243, 294), as well as in his *Justice* (19). In a meritocracy, the slogan, echoing the communist one, might be something like the following: from each one according to one's meritorious might, to each one according to one's righteous desert. The second half of the slogan is usually the part that is stressed in most meritocracies; the first half, however, is as significant and has a long history too.

[209] The term "earning" is revealing: salary is normally assumed just.

[210] I examine below these two examples from the perspectives of other kinds of conditions.

[211] A systematically established unequal pay scale manifests the systematic inequality based on a proportional equity. The justice of such a pay scale is tacitly assumed legitimate and thus rarely challenged.

right to actualize one's potential? How could it be anything but proper & right to do so—that is, fitting & right to exercise one's powers, one's talents, one's gifts, one's skills, and so on, and to benefit from this exercise? Would not society benefit from such a meritorious system, through which members contributed by exercising their meritorious might and were righteously rewarded for doing so?

The form of meritorious M→R appears in various guises: there is the noble M→R,[212] the aristocratic,[213] the superior,[214] the honorary, the deserving, the entitled, the earned, the rewarded, the worthy, the fit, the proper, the qualified,[215] and of course the right, in the sense of right & proper or right & fitting. In this variety of forms M→R continues to hold sway: for under this kind of form, meritorious might as an indirect expression of merit appears—and is thus acknowledged, approved, recognized—at least

[212] Cf. the ancient notion of *kalos kagatos* noble or beautiful in, e.g., Xenephon, Plato, and Aristotle (see note below). Also cf. Nietzsche on nobility in his *Genealogy of Morals*. (See, e.g., Latour's "Socrates' and Callicles' Settlement" in which he refers to elite and noble persons regarding Callicles' version of M→R (195-8).)

[213] Cf. especially the literal sense of the term, as in rule by the best, by the *aristoi*.

[214] Superiority is another version of the aristocratic quality. In his *Peloponnesian War*, Thucydides, echoing his Greek cultural views, refers to fitness (148) and merit (145) and what is right and proper (54, 85, 161). Plato's Socrates in *Charmides* refers to merit valuation (159e-160b); in the *Statesman*, Plato refers to merit (292a) and in *The Laws*, talks of the priority of the superior over the inferior (627, 917), natural goodness (890, 937), and of aristocratic merit (757, 827, 833, 857). In *Conversations of Socrates* Xenophon constantly refers to the natural or aristocratic beauty and goodness, the *kalos kagathos*, of the deserving (59-61, 71, 73, 75, 78, 82, 98, 116, 122, 123, 124, 134, 149, 185). In his *Politics*, Aristotle refers to fitness (11324b30-40) and merit (1279a10, 1282b25, 1284a5-20, 1293b10, 1302b10-15). In his *Consolation of Philosophy*, Boethius seems to echo some of these Greek sentiments when he talks about the wickedness of the weak and the goodness of the strong, the mighty good with their power or ability (116, 118-20). Cicero too seems to echo this aristocratic, meritocratic sentiment: *On the Commonwealth* (61, 132, 138, 218, 234). The Aristotelian Maimonides too talks about merit by relating right to desert (142-43), as does the Aristotelian Aquinas (125, 174). From the secondary sources, we get similar references: in "The Justice of Socrates' Philosopher Kings," Darrell Dobbs refers to merit in the form of natural qualifications (810) and "highest strivings" (822); in "Socrates and Callicles: A Reading of Plato's *Gorgias*," Devin Stauffer refers to merit and fitness and desert (633, 634, 639-40); and in "Callicles and Thrasymachus" Rachel Barney refers to the superior-inferior relation, a relation regarding which, she claims, Plato and Callicles are in agreement (16).

[215] For example, the professionally qualified, which could characterize the basketball player as well as the teacher, though these could also be characterized respectively as physically and intellectually qualified.

as innocuous, innocent, obvious, natural, normal, and what is most significant, as right or just or, at least, not unjust. Hence in cultures in which merit is commonly valued, the M→R fallacious reasoning can be thus facilitated. Just as in the cases of simple bodily movements extrapolating to complex ones, so too can cases of merit facilitate such extrapolations to other cases, thereby extending the meritocratic legitimacy even to cases that would otherwise normally lack such legitimacy.

1.4.4. Other Conditions

Yet other kinds of complementary conditions include the following. As noted above, another manifestation of merit or a variation on its theme is the meritorious powers of qualifications, which are assumed legitimate and righteous. In the professional realm, for example, along with the powers that come from official titles, these qualifying powers can play a role in determining the legitimacy of decisions and thereby the righteousness of the corresponding actions. The example above regarding the teacher's and the basketball player's meritorious abilities can be seen alternatively from this perspective of professional qualifications. Another condition that is related to merit, though is not in itself a manifestation of it, is the one regarding official or institutional powers, powers that are also assumed legitimate. Unless otherwise questioned or challenged, the powers that come from an office or from an institution are considered legitimate—their legitimacy being their default mode. Again the teacher, just as in the case of any other institutionalized office holder, can be seen alternatively as having institutional power over students regardless of the teacher's meritorious ability or professional qualifications. Thus even a person who did not merit a teaching position,

once hired and thereby recognized as a teacher, has, while in the position, pedagogical powers considered legitimate because they are officially or institutionally legitimate.[216]

Just as with merit, responsibility, too, can be a kind of indirect righteous might and thereby play a justificatory role.[217] Along with professional qualifications as well as official or institutional powers, an agent's responsibilities—normally recognized responsibilities—can function indirectly as a kind of might, by righteously sanctioning the dutiful powers required to perform the relevant duties. For example, a parent has power over a child through the normally recognized parental responsibilities, or a teacher over students through normally recognized pedagogical responsibilities. Having normally—socially or legally or politically—recognized responsibilities for x translates into having power over x or the right to use power to take care of x or to discharge one's duties regarding x, with the duties being discharged however the responsible agent sees fit, within normally recognized broad and somewhat vague bounds. Thus there can be instances in which acting from responsibility ultimately manifests itself as an acting that is tacitly justified by M→R.[218]

There are yet many other complementary conditions: including ones that are derived from basic bodily movements or merit or qualifications or responsibilities, and ones that independently sanction a might as righteous directly or, more likely, indirectly, based on widely accepted norms, mostly assumed and unexamined norms, which reveal the commonly assumed and unexamined yet, nonetheless, accepted and recognized kinds of righteous might. These kinds of conditions help to make possible equivocations due to

[216] See ch. II, "Abusing Powers."

[217] Cf. the relation of dharma or duty and right conduct in the *Bhagavad Gita*—duty's justificatory power.

[218] Cf. the epigraph quoting Erasmus, in ch. II, "Abusing Powers."

the practically unrecognized ambiguity of the maxim. The general principle in play regarding these various kinds of complementary conditions is that any set of conditions that naturally or normally endows a might with righteousness[219] or does not endow it with unrighteousness[220] makes M→R2 apparently always applicable and thereby makes possible equivocations, misinterpretations of situations, and misapplications of M→R's two principles. Furthermore, it is highly likely that this possibility will become an actuality in cases in which the ambiguity of M→R is not recognized and thus the equivocating is truly fallacious and not actually malicious.

1.5. On Conditions — Conclusion

Through the fallacy of equivocation, this explanation shows that even though M→R1 is normally considered by most a principle of injustice and thus unable to play a justificatory role, whenever it is equivocated, however unwittingly, with M→R2,[221] it can end up affecting one's thinking. One unwittingly equivocates, slipping from one sense of M→R to its other, slipping from M→R2 to M→R1 in the same train of thought. As a consequence, one misapplies M→R2, applying it in a situation that ought to fall under M→R1, thereby tacitly justifying by M→R one's illegitimate use of one's powers, one's unjust action, particularly, one's violence. This is the way the maxim "Might makes right" can function practically universally and ubiquitously, a way that can lead to agents' unwittingly tacitly justifying their violence.

This explanation helps to answer a key question regarding M→R. How can it be that after millennia of attempts at refuting it, M→R did and still does, nonetheless,

[219] E.g., a meritorious might.

[220] E.g., basic bodily movements.

[221] The kinds of cases that I present above—cases that most people would *not* consider cases of M→R—show when the misinterpretation and equivocation can occur.

continue to obtain? M→R still obtains because it always already obtains: in its M→R2 sense—that is, in its sense that expresses a principle of life—M→R as a tacit JV can affect any living agent. As long as there are agents, there are actions. Potential agents become actual agents. Power is a potential, and it is not unjust for a potential under the proper conditions to be actualized. One's powers, as one's potentials, seem always to be at one's disposal, always ready to be actualized by one when the conditions are the proper ones, and unless one is prohibited from actualizing those potentials or, expressed more relevantly, from using those powers, then one unwittingly feels one is justified and thus has a right to do so, and this means that one's use is not unjust, not an abuse, indeed, in some circumstances, it may even be just: it may simply be right.

Therefore, given the ambiguity of the maxim "Might makes right" and the many ways that can lead to us humans self-deceptively committing the fallacy of equivocation— confusedly misinterpreting situations and hence misapplying the M→R principles—it is no wonder that we run the risk of unwittingly and hence non-cynically living normally by M→R.[222]

2. Does Military Might Make Right?[223]

In this section as well as in sect. 3, I illustrate M→R in action. While in the latter section I examine briefly the hypothetical example of a teacher as an exemplar of institutional power, in the former, after some initial remarks in 2.1 to situate historically M→R in war and combat, I examine extendedly—from the perspective of M→R as a JV

[222] The non-cynical quality thus flows from the unwitting and tacit ones.

[223] Although in this section I attempt to illustrate the explanation by critically examining the post-9/11 war in Afghanistan, I do so as a philosopher citizen not as a military historian or as any other kind of social scientist: my perspective is similar to the one Leo Strauss characterizes as the philosophical perspective on war in *The City and Man*: "Philosophy . . . deals with war as such" (142).

and of American exceptionalism as an anthropodicy—the real example of the 2001 American war in Afghanistan.

2.1. Ancient Ways

> [T]he LORD will grant my lord [David] an enduring house,
> because my lord is fighting the battles of the LORD, and no wrong is ever
> to be found in you.
>
> 1 Samuel. 25.28[224]

There are various ways in which M→R can play a role in war. An ancient way is founded on the idea that one's side is fighting in the name of God or even with God leading the way and is thereby divinely sanctioned[225] and thus that one's war is a holy war: for example, many, if not all, of the wars of ancient Israel,[226] the Crusades,[227] and

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[224] Abigail is speaking to David. This translation is from *Tanakh: A New Translation of the Holy Scriptures according to the Traditional Hebrew Text*. For more on holy war, see notes below.

[225] An example from the non-Western tradition is the encouragement and sanctioning offered by Krishna to Arjuna in the *Bhagavad Gita*. Even Genghis Khan understood his wars as divinely sanctioned by Tengri: see Jonathan P. Roth's *War and World History*, "Lecture 20: The Mongols Conquer a World."

[226] See, e.g., the notion of holy war for the early Hebrews in Roland de Vaux' *Ancient Israel: Volume 1: Social Institutions* (258-67); Bruce M. Metzger and Michael Coogan's *The Oxford Companion to the Bible*, the "war" entry (e.g., "God . . . fought their battles and drove out the enemy before them (Deut. 14.2). . . . War . . . was in some respects a religious act . . . (1 Kings 22.5). . . . War was 'sanctified'. . . . The camp was a holy place where God himself was present (Deut. 20.4; 23.14). . . . Terms of peace were to be offered, but if rejected, then the Israelite army was to carry out the Lord's judgment (vv. 10-14; cf. 20.19-21.9)."); Robert Oden's *The Old Testament: An Introduction*, "Lecture 3: The Religion of the Israelite Tribal League," "Lecture 11: Prophecy in Israel," and "Lecture 16: Apocalyptic Prophecy"; or Roth's "Lecture 10: War and the Rise of Religion"; Amy-Jill Levine's *The Old Testament*, especially "Lecture12: The 'Conquest' (Deuteronomy 20-21, 27-31; Book of Joshua)." Here are other biblical references in addition to the epigraph: "The LORD is my strength and might" (Exodus. 15.2); "Through the might of Your arm they are still as stone" (Exodus. 15.16); "go into action, for the LORD will be going in front of you to attack the Philistine forces" (2 Samuel. 5.24); "it is the God of Israel who gives might and power to the people" (Psalms. 68.36).

[227] The Christian notion of just war is partially based on this kind of sanction. See, e.g., Aquinas (*Aquinas on Law* 141, 164-67); Dino Bigongiari's introduction to *The Political Ideas of St. Thomas Aquinas* (xvii), (Holmes, *War and Christian Ethics* 104-05); Luther *re* war as God's institution (Holmes, *War and Christian Ethics* 142-43); Calvin on scriptural sanction for just wars (Holmes, *War and Christian Ethics* 168), in "On Civil Government" on just wars as God's will (62-63); Francisco Suarez *pace* Luther on just war not as God's will, but as God's permission (Holmes, *War and Christian Ethics* 201); Bossuet in *Politics Drawn from the Vary Words of Holy Scripture* on justice of holy wars (53, 287ff); Michael Walzer on just

Jihads.[228] In these cases of M→R in its guise of holy war, the divine sanction reveals that divinely sanctioned might makes right. Another traditional way is based on the belief that winning is evidence that the winner's might is righteous and that the exercise of this might makes right.[229] Yet another way, similar though distinct, is founded on the right of conquest: the successful conquest becomes evidence that the conqueror is righteous and that conquering-might makes right.[230] Yet one further way, most relevant to nations such as the U.S., is the overwhelming differential in might—a true case of a mightier side against a weaker one—that can lead the mighty side to see itself as a maker of right as a consequence of its righteous-might, which is itself a consequence of its super-might.[231] Let's examine further this still on-going way of M→R.

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war as the JV for the Crusades (*Just and Unjust Wars* 110, 113, 227, 230); and Roth's "Lecture 19: Crusade, Jihad, and Dharna Yudda."

[228] See, e.g., Roth's "Lecture 19: Crusade, Jihad, and Dharna Yudda." Here are some scriptural references, all on the "fight for the cause of God" theme (*The Koran* 4.67, 4.82, 47.3).

[229] See, e.g., the considered judicially legitimate *trial by combat* or *trial by battle*. In *The Right of Conquest* Korman explains what "was perhaps the prevailing view in the Middle Ages": "war was seen as a kind of judicial procedure or 'trial by conquest'. On this view war was a contest between two opponents, each of which thought itself to have the just cause, but with no court to decide the question between them; and in going to battle they were appealing to the decision of God, who was thought to have ordained that the just side would win" (11). She goes on to footnote the following: "There is thus an obvious parallel between the modern doctrine of Social Darwinism and the medieval concept of the 'trial by battle' inasmuch as both theories accord a moral significance to military victory: in each case, might is taken to *reveal* who is right" (11 n.13).

[230] Here are a few passages from Korman's *The Right of Conquest*: "discovery gave . . . exclusive rights" (46); "inability . . . to meet the standards of 'civilization'" (59)—Thus the White Man's Burden especially after discovering the lands of "uncivilized" beings, who also happen to be less powerful; "ability to maintain permanent possession" (112)—M→R: if can maintain possession, then can sustain ownership rightly; "right of sovereignty by virtue of sheer power" (125); "'To the victors belong the spoils'" (160); "under the guise of liberation" (167); "ethnic grounds . . . reunited with their blood brothers" (167 n.118); "*ex injuria jus non oritur*"—"from an illegal act no legal act can arise" (234ff)—unless effective sanctions obtain (248)—e.g., the right-of-conquest M→R.

[231] Clausewitz explains that in "the Middle Ages . . . . The armament and tactics were based on the right of might" (*On War* 377). Is this still the case now if M→R as a JV continues to obtain because of superior weapons and thus superior might, etc.?

2.2. American Exceptionalism — An Anthropodicy

LET US HAVE FAITH THAT RIGHT MAKES MIGHT.
Lincoln[232]

[T]he American people in their righteous might will win.
FDR[233]

We will go forward with the confidence that right makes might.
Obama[234]

Following analogically the model of a theodicy, an anthropodicy, as shown above,[235] reveals how a people can always justify its ways. Again an anthropodicy is a human theodicy, a justification of the ways of a people, one expressing the belief that this people's might is righteous and thereby makes right—always and only right. By expressing that a people's ways are just, an anthropodicy unwittingly manifests M→R as a JV. With the actualization of the potential of the individual organism extended to that of the collective organism, an anthropodicy unwittingly alludes to M→R2—that is, to the right that a people has to actualize its potential—in its very expression of the justified people's faith in its might as righteous. Overwhelming-might can too easily be mistaken for righteous-might. Although any people can identify its ways as ways worthy of an anthropodicy, the people of a super-mighty nation is particularly susceptible to this temptation. It unwittingly considers its might as righteous and thereby uses it in order to make right, principally because it takes circularly its overwhelming might as well as the

[232] From President Lincoln's "Address at Cooper Institute, New York, February 27, 1860"—isn't the inversion of the maxim, repeated in the new millennium by another American president (see epigraph and note on Obama), evidence of its persistence?

[233] From President Roosevelt's "Pearl Harbor Address to the Nation"—doesn't righteous-might make right?

[234] From President Obama's 2009 war-plan speech, "Remarks by the President in Address to the Nation on the Way Forward in Afghanistan and Pakistan." This inverted declaration does not seem to be a slip: the president re-declared it regarding Syria in 2013 (see corresponding notes above, in ch. II, and below).

[235] See ch. II, "Anthropodicy."

successes this might brings as evidence of the legitimacy of its anthropodicy. This kind of confusion, of conflation of overwhelming-might with righteous-might need not be a malicious pretense offered by the people of a super-mighty nation in order to cynically justify the exercises of its might. The overwhelming-might confuses the people: by its very successes, this might appears righteous. Then in declarations and re-declarations of American exceptionalism, American presidents repeatedly reassure us Americans that America's might is righteous.[236] Here is the partially tacit reasoning: given that we believe that right makes might and act according to this principle, America's righteousness is what makes America mighty, not vice versa, and, therefore, America's righteous-might makes right[237] and can only make right.[238]

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[236] Cf. Shakespeare's "The lady doth protest too much, methinks" (*Hamlet* 3.2). How might these recurring presidential protestations of righteousness function? I examine a potential functioning next.

[237] Cf. the ancient principle that the effect cannot be greater in kind than the cause, or, alternatively, that the effect cannot have a quality not already in the cause—thus if this principle is true, then it must be the case that for might to make right, for it to cause justice to come into being, it must be righteous, or, more precisely, it must have the quality of righteousness, but if this is so, then M→R is not the maxim that it is cracked up to be, namely, M→R in its first yet secondary or derivative sense; rather, M→R, ultimately and fundamentally, is truly itself in its second yet primary or originary sense.

[238] In addition to the epigraphs, which seem to reflect the anthropodicean theme of American exceptionalism, here are few more expressions of this theme. President George W. Bush officially expressed this exceptionalism in his administration's 2002 report on *The National Security Strategy of the United States of America*: "Our Nation's cause has always been larger than our National defense. We fight, as we always fight, for a just peace. . . . The U.S. national security strategy will be based on a distinctly American internationalism that reflects the union of our values and our national interests" (sect. 1); "we do not use our strength to press for unilateral advantage" (Introduction); "We build a world of justice" (sect. 4); "The United States possesses unprecedented—and unequalled—strength and influence in the world" (sect. 1) and "The unparalleled strength of the United States armed forces . . . have maintained the peace" (sect. 9). It is thus too tempting to think that one's mighty-might makes right. (This national security document brings to mind Clausewitz's notorious dictum, "Thus War ... became ... diplomacy somewhat intensified" (*On War* 382), a dictum that some, like Michael Howard (co-editor and co-translator of *On War*), interpret as a JV: "Clausewitzian principles were deployed to justify the continuation of attacks" (39).) On December 1, 2009, at West Point, President Obama presented his military plan: "Remarks by the President in Address to the Nation on the Way Forward in Afghanistan and Pakistan." In these remarks, the president echoed his predecessor's views and sentiments: "the strength of our values"—i.e., the might of our right—"the source, the moral source, of America's authority"—i.e., the right of our might—"our might and moral suasion"—i.e., our anthropodicy. Cf. President Obama's re-declaration of American exceptionalism on 9/10/13, regarding the Syria chemical weapons issue, Putin's challenge in an opinion piece in the NY times on 9/11/13, as well as President Obama's re-declaration at the UN on 9/23/13: "I believe America is exceptional." (Cf. Lawrence LeShan's notion of the shift from sensory to mythic reality

American exceptionalism is an expression of the American people's anthropodicy. This exceptionalism is meant to show the just ways of the American people, thereby unwittingly manifesting the kind of justice captured by M→R2. It is in the very nature of an anthropodicy, however, to end up hiding its potential manifestation of the injustice of M→R1. Paradoxically such anthropodecean declarations and re-declarations as American exceptionalism become an unwitting way to avoid facing up to the brutal fact that a people's only JV in a particular instance might well be M→R. For example, by maintaining a belief in and being ready to offer such an anthropodicy as American exceptionalism, we the American people end up both thinking that our might is righteous and simultaneously concealing from ourselves that our only JV might be M→R1. We thereby unwittingly deceive ourselves regarding the justice of our ways. Thus an anthropodicy can be both an expression of M→R2 and a way of concealing the functioning of M→R1 as the JV, especially as the principal JV. A people ends up thinking that whatever it does is right, that its actions are always right, even in cases of the lesser of two evils. Thinking this way, it unwittingly misapplies M→R2 in M→R1 situations, while its expressed JV, nonetheless, never appeals explicitly to M→R.

These kinds of thoughts might—and if they do not, then they ought to—lead one, especially *qua* citizen, to wonder about the following. What if nations, particularly super-mighty nations, in spite of their best intentions, often go to war ultimately because they

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in *The Psychology of War* (see, e.g., pp. 31, 36-37, 40, 51-57, 63-68, 109-17)—is the idea of American exceptionalism a partial shift to a mythic reality?) For an insightful rhetorical analysis of the President's presentation, see Robert L. Ivie's "Obama at West Point: A Study in Ambiguity of Purpose"; for an analysis of the relation between the President's presentation at West Point and his acceptance speech for the Nobel Peace Prize, see Robert E. Terrill's "An Uneasy Peace: Barack Obama's Nobel Peace Prize Lecture."

can—not, however, explicitly in accord with M→R1,[239] but rather by an unwittingly equivocal appeal to M→R2? What if they consider themselves righteous, and they do so because they unwittingly consider their might as a sign of their righteousness, which in turn makes their might righteous and the exercise of their righteous-might a making of right? What if they abide by M→R as a JV not only in going to war but also in conducting it? What if one's nation thus often violates both *jus ad bellum* and *jus in bello*, while claiming all along, and doing so non-cynically, that it is abiding by these principles of justice, that it is fighting a just war by just means?[240]

Do these kinds of questions, however, sound preposterous, particularly the ones regarding one's own nation? After all, even if other nations—especially rogue ones—often act unjustly militarily, one's own nation does not ever do so. Although it might have to choose between the lesser of two evils, it never chooses the evil ways over the good ones whenever the good ways are realistically practical options. We citizens or, at least, the great majority believe that our nations always enter wars with good intentions and for good reasons, in order to fight for peace or for other good ends or causes such as self-defense or the defense of others, innocent and weak others; we believe that our nation is always fighting fairly or, at least, never unfairly, always abiding by just principles. Indeed, even if there were no such traditional principles as *jus ad bellum* and *jus in bello*, we confidently trust that our nation would abide by the spirit of such principles of

[239] This first way is the kind of account that IR realists and neorealists might offer, or outside of the IR discourse, it is one that might be offered by those who have cynical or, as they would claim, realistic views regarding the ways of the world. These realists too might be equivocating after all.

[240] As noted above, there is a long history of examinations into the justice *of* and *in* wars; what is now called just war theory. For an extended examination see Michael Walzer's *Just and Unjust Wars*.

justice.[241] That's who we are.[242] We're not, after all, like those other nations that, ultimately, have no other justification for their fighting than that their might makes it right for them to go to war solely for their advantage and to fight it by any means that will insure victory.

Are there really rogue nations? Do these nations that allegedly do abide by M→R1 do so openly, declaring M→R as their JV? Do they declare their might unrighteous, their ways bad or even evil? Neither history nor the present seems to offer evidence of such declarations.[243] Nor does it seem likely that either would: such declarations of non-self-righteousness are implausible. Is this lack of evidence, however, sufficient to deny the possibility that M→R has played and continues to play a justificatory role for some nations' going to war and conducting themselves in the war? After all, doesn't it sound plausible that, although undeclared, M→R plays a justificatory role for some nations, for some rogue nations, for other nations, albeit never for one's nation? Again, just as with the declarations, so too with the opinions, there is no evidence, and it is implausible that any nation would have an ethos of non-self-righteousness, of conscious evilness. Given then that nations neither declare openly their abiding by M→R1 nor consider themselves as abiding by it, even if some do abide by it,

[241] I need to point out that given that I am examining the common thinking in this regard, I am not interested in examining the current state of international law since most citizens of all nations are at most vaguely aware of the contents of these laws and thus the actual laws are only vaguely in play for them in their thinking about wars and especially about their nation's wars; since, nonetheless, all citizens, whether they are informed, can participate in the debate over war, what is most significant is how any citizen might think and then decide. Cf. "*Inter arma silent leges*: in time of war the law is silent" (qtd. in *Just and Unjust Wars* 31). Again, I am examining the phenomena as a philosopher, not a lawyer, as a citizen, not an expert.

[242] See the note in ch. II, in "Anthropodicy" on the notion of *anthropophany*.

[243] Even in the case of the Melians, the Athenians are declaring not their evilness, but rather their naturalness, that is, their normal abiding by the laws of nature, their natural living by M→R2.

this abiding would have to be determined by other means than by referring to open declarations[244] or by examining evil intentions.

If all this reasoning seems obvious, perhaps it is because one needs to re-examine the obvious in order to determine whether M→R ever plays a justificatory role in war. If no evidence seems to offer support for the role of M→R, and yet it seems plausible that in some cases M→R is playing such a justificatory role, then some other kind of evidence is called for. Of course, it is possible that M→R is not playing a justificatory role in war for any nation: in this case, the absence of evidence makes sense. What is clear, however, is that if M→R is playing a justificatory role, then an examination of its functioning needs to rely on a different kind of evidence than the evidence of nations' openly declaring their abiding by M→R or of nations' evil intentions.

2.3. Afghanistan — An Anthropodicy in Action?

Often M→R does play a justificatory role for nations in their deciding to go to war as well as to conduct them in particular ways. Often it is M→R1 that plays a role even though it is M→R2 that is tacitly in play for the agents, who equivocate and thereby unwittingly misapply M→R2 and thus abide by M→R1. Methodologically, the support for this view flows from an interpretation of military might that reveals not only this possibility but also its probability. Although the 2003 American War in Iraq[245] might be considered a less difficult case for showing how M→R was in play, let's focus instead on

[244] Although nations do not openly declare their abiding by M→R, some do declare their abiding by its inverse: what can be learned from this inversion? As I point out above, the inversion of a maxim is evidence not of the maxim's extinction, of its non-existence, but rather of its on-going relevance—inversion is not evidence of absence, but rather evidence of persistence.

[245] Its official military name is Operation Iraqi Freedom (OIF).

the post-9/11 American War in Afghanistan,[246] a war that few would consider as justified, in any way, by M→R.[247] Given that this war is generally considered a defensive war, an examination of it might reveal more clearly than the Iraq example the unwitting functioning of M→R as a tacit JV.[248]

Again, appeals to M→R seem to have always been exceptional[249] and certainly seem to be almost nonexistent nowadays,[250] so I cannot point to either citizens' or officials' appealing to M→R in order to show that M→R might well have been

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[246] Its official military name is Operation Enduring Freedom (OEF). In addition to Wikipedia, here are a few websites on the war, its history, and the timeline of crucial events: *Council on Foreign Relations*, "Afghanistan," "U.S. War in Afghanistan"; *BBC*, "History," "The War in Afghanistan"; *New York Times*, "Timeline: Major Events in the Afghanistan War"; *PBS*, "Now," "Timeline: War in Afghanistan"; *Aljazeera*, "In Depth," "Afghan War Timeline"; *The Guardian*, "Afghanistan: The War Logs."

[247] Was the 2003 Iraq war an instance of M→R? Did our might, including our immunity and impunity (more on these qualities below), play a justificatory role in our going to war and in a majority of U.S. citizens supporting it once the war was underway? Can a preemptive war be characterized as a defensive war? This is a difficult question; I think, however, that OIF can be characterized as one that was primarily though unwittingly pursued under the aegis of M→R, of American righteous-might righting the wrongs of a dictator and bringing justice to the area, etc., but I don't try to make the case here. Instead, I examine the more difficult case of the post-9/11 war in Afghanistan. What makes it more difficult to make a case for M→R as a JV in this war are, at least, both its apparent defensive quality and its support by two administrations, one from each of the two principal political parties in the U.S., as well as by members of the international community.

[248] As noted above, my perspective is philosophical; furthermore, I am interested in examining the common thinking of the typical citizen that is based on common and not necessarily expert knowledge of the war. The kind of common knowledge that is relevant to my examination is, for instance, the enormous differential in military might that gets reflected in the following obvious facts: while the U.S. military can attack by traditional military means the homeland of the enemy, the enemy cannot retaliate in kind, or while almost all U.S. citizens, the exceptions being the few citizens at the front and their families, are not only immune from the effects of the fighting, but also so immune from it as to often even forget that there is on-going fighting, that the nation is indeed at war, etc., those living on the lands where the fighting is taking place lack such immense immunity.

[249] Cf., e.g., Aesop's fable and LaFontaine's modern version, Thucydides' Melian dialogue, Thrasymachus's and Callicles's definitions of justice (see especially the section above on the historical context).

[250] As shown above, an exception is, at least at the level of a school of thought, IR realists and neorealists, theorists who characterize the international realm as a realm of self-help, as a Hobbesian state of nature. Here are some of the words of one of them: Waltz in "The Origins of War in Neorealist theory" declares, "War is normal. . . . peace is fragile" (620) and the international realm is one of "self-help" (624); in "Structural Realism after the Cold War" he states, "strong states . . . dictated rules" (26), for they "bend and break laws when they choose to" (27). Scholars such as Waltz are normally not appealed to by politicians or by pundits, but referred to in arcane ways by other scholars, so they have no or little practical effect on the normal thinking of the typical citizen.

functioning as a JV regarding the war in Afghanistan; therefore, instead of simply stating that M→R has functioned as a JV for some of us, citizens and officials alike, I would like to ask all of us this: Is it possible that M→R played a justificatory role in our going to war in Afghanistan and that it has played and continues to play such a role in our conduct therein?

Most might answer categorically in the negative, claiming that it was and is a case of self-defense—what better justification! Of all the JVs, self-defense might be the one with the most legitimacy for most people and peoples: very few, perhaps only the few pure pacifists and adherents to absolute nonviolence would ultimately deny the legitimacy of self-defense in its common guise. Thus an appeal to self-defense—which, for a nation, often takes the form of an appeal to national security in the face of either actually current or potentially imminent danger—is recognized by almost all as a legitimate JV.[251]

Just as with M→R2, one is usually not prohibited in using one's might, so too as regards self-interest in the form of self-defense, one is usually not prohibited in acting in one's self-interested self-defense. In both cases the prohibitions are the exceptions. As a nation, when we go to war, we citizens usually think under the aegis of the usual lack of prohibitions to act in our national self-interest and self-defense. The fact that our might is great, awesome, awe-inspiring is no more a real conscious concern than it is when one as an individual acts in one's self-interest and self-defense, using whatever means one has at one's disposal, until one feels safe and secure. Thus, if a nation goes to war because it was attacked and because it might be attacked again soon unless it defends itself—as, for

[251] Self-defense might be the closest thing there is to a universal JV. It obviously has a long history. Thucydides seems to be expressing a shared assumption then and now when he declares, "one is always justified in resisting an aggressor" (227).

example, the U.S. on 9/11—then the nation's JV is self-defense, which, for all intents and purposes, is considered a legitimate JV.[252] The war in Afghanistan thus appears to be a perfect example of a just war. In contrast to the 2003 war in Iraq, which he did not support, first as presidential candidate and then as president, Barack Obama has continuously made the point that the war in Afghanistan is a just war and one the U.S. should be focusing on. His decision to send 30,000 more troops could be interpreted as his declaration of war, his decision to enter the war and then to extend it, his endorsement of the war—justified partially by the fact that America's "right makes might" but primarily by appeals to self-defense and national security.[253] Thus both the Obama administration and the Bush administration that preceded it appear to see this war as just and justified partially because of American exceptionalism but primarily because the United States is simply defending itself.

Given this characterization, what is left to examine? Isn't the American war in Afghanistan a clear case of self-defense and thus evidence that M→R did not and does not play a role in this war? Furthermore, doesn't this case offer counterevidence for the views that M→R often plays a justificatory role in the wars of mighty nation states? Nonetheless, however obviously justified we Americans feel both in going to war and in supporting our conduct in it, we ought to examine critically our apparently obvious answers to these questions. We ought to examine the self-defense JV regarding both our going to war in Afghanistan and our conduct therein. We ought to see, by applying the

[252] Is self-defense always a legitimate JV? Is it a legitimate JV anyway that it is undertaken? Even if done unilaterally? I return to the issue of self-defense below. Here I would like to refer to two opposite views on the defensive aspect of this war: Noam Chomsky's "A Just War? Hardly" regarding the UN authorization for self-defense, etc., and Walzer, in, "The United States in the World—Just Wars and Just Societies: An Interview with Michael Walzer," in *Imprints*, on the justness coming not from the Security Council vote, etc., but from the defensive quality.

[253] See the notes above on President Obama's remarks.

equivocation explanation, whether M→R might have played such a role. To do this, however, we need to examine, first, what the might of M→R could mean regarding war, then, what self-defense means regarding terrorist attacks, and, finally, how M→R could play a justificatory role given these interpretations.

In order for M→R to play a role in war, how much mightier must the mightier side be than the other side? When the sides are evenly matched, even if one side is slightly stronger than the other, it might be difficult to see how M→R could obtain. But what about cases in which the strengths of the sides are so clearly unequal, with one side being so mighty that it can fight with a kind of immunity[254] and impunity,[255] being vulnerable neither to real counterattacks nor to probable punishments?[256] If a nation is so mighty that it can have its ways with immunity and impunity, might it be ultimately, even if unwittingly, abiding by M→R? An overwhelming might that can provide martial

[254] The etymology of "immune" can be revealing—*immunis*, in- *munia* services, obligations, *munus* service—cf. serving in the military, the draft or lack thereof, citizens immune, citizens not serving their country, etc.

[255] Is there real immunity and impunity? As Simone Weil points out, this perspective on power, or, as she prefers, on force, is a mere illusion, the illusion that some of us humans are exempt from the human condition, from the destructive effects of force on us—the justice of Ares or those who live by the sword, etc.: see e,g, *The Iliad or the Poem of Force* pp. 27-28 and 31 as well as James P. Holoka's introduction (5, 7) and commentary (82-83, 84).

[256] By real counterattacks, I have in mind those in kind, on the mighty side's homeland: for example, whether when the mighty side bombs the weaker side's cities, the weaker side can reciprocate in kind or, at best, is limited to retaliatory actions that are either mainly defensive and taken in its own homeland, actions that might be part of a strategy of guerrilla warfare, or acts of terrorism in the homeland of the mighty side. By probable punishments, I have in mind the likelihood that any of the mighty side's actions would be judged in an international court of law as war crimes and effective punishments exacted.

immunity and legal impunity[257] seems to make it possible, perhaps even probable, that M→R will play a justificatory role on the super-mighty side sometimes, if not often.[258]

Even if this is the case, many might counter, what does this have to do with the war in Afghanistan, which is clearly a defensive war? The United States was attacked on 9/11. The U.S. military, along with others, sanctioned by international[259] and national[260] laws, responded legitimately. Again, certainly it is the case that defense has almost a universal claim to legitimacy, but is it applicable here? Can the war in Afghanistan be characterized as a defensive war? Did the nation of Afghanistan attack the United States on 9/11? No, the attackers were members of a multifarious group of non-Afghans who had been permitted to train in Afghanistan by the Taliban. Of course, declaring and waging war against a group of people that has no nation state is problematic: international law still seems inadequate in this regard. It might be difficult or even impossible to apply the rules of war in the case of a terrorist attack by nationals whose nation states are not waging war against the attacked.[261] But does this mean that it is legitimate for the attacked to attack one of the nation states where these terrorists trained, even if the

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[257] This kind of immunity and impunity could mean, e.g., the exclusion from combat for the majority of the population on the mighty side with a voluntary recruiting system and the absence of a draft, an almost absolute protection of the mighty side's population with no fear of substantial or equivalent retaliation, the use of weapons that protect absolutely the soldiers using them, the practical impossibility of legal penalty.

[258] As American citizens, our special immunity is not the normal immunity accorded to non-combatants by the enemy, but rather the almost absolute immunity due to the enemy's inability to attack us militarily in our homeland: e.g., during the 1991 Iraq War (the Gulf War) we bombed Iraq; unable to retaliate in kind, Iraq fired SKUD missiles at Israel: no doubt Iraq would have fired them at us, at our homeland, had it been able to do so, but it could not; it lacked the might to do so, or, e.g., having been shocked and awed on 9/11, in an exceptional and isolated event, we, in turn, at the opening of Operation Iraqi Freedom, were able to shock and awe the Iraqis at will, without fearing a retaliation in kind.

[259] In addition to the traditional *jus ad bellum*, the UN Charter regards defense as a legitimate cause for war.

[260] In accordance with the constitutional requirements, the U.S. congress declared war on Afghanistan.

[261] See, e.g., Roth's "Lecture 46: Guerrilla War and Terrorism" and "Lecture 48: Warfare at the Turn of a New Century."

government of this nation state permitted the training? Can this waging of war be characterized as defensive? If X attacks the nation A, and if A, in turn, responds by attacking Y, is this a defensive case? Does it matter that Y is an ally of X? Or that Y was aiding X? Or that Y permitted X to train? May A simply transfer the legitimacy of defending itself against X to the legitimacy of attacking Y even when Y never aggressed it?

For inquiry sake, let us assume that the war in Afghanistan was justified legitimately by an appeal to self-defense. Is our critical examination hence over? Can we then say that M→R did not and does not play a justificatory role in this war? Even if the United States went to war legitimately justified by an appeal to self-defense, self-defense cannot justify fighting by any means. This is obvious. It is particularly obvious in the case of some weapons whose use is prohibited by international law and norms such as biological and chemical weapons. It is also obvious, at least *de jure* though not often *de facto*, in the case of the protection or exclusion from combat of noncombatants—their justified immunity being normally recognized by almost all. Yet there is much grey area, and this area might be the realm in which M→R can often play a justificatory role. Thus given the immunity and impunity that are characteristics of American military might, whether we Americans are abiding by the principles of *jus in bello* may well be at issue in this war. Not all the means a nation's military can use may always be justified by an appeal to self-defense and thereby become legitimate. And yet, with few exceptions, a nation's military uses its weapons no matter how much more sophisticated and mightier these are compared to the enemy's. This seems to be the case with America's military. Does M→R then often play a justificatory role regarding the choice to use particular

military means? Does immunity play a role in this regard? For example, what about the immunity of using drones—pilot-less planes remotely guided by humans who are absolutely protected from direct retaliation at the point of attack—or that of an overwhelming advantage in the air, with only surface-to-air missiles to protect against, and even those being neither quantitatively nor quantitatively at par? It seems that M→R could tacitly permit and thus justify such unlimited so-called defensive actions. So the question is this: in one's defense is one using the proper amount and kind of power in order to accomplish the alleged justified action? If one is using one's power beyond this, then one might well be abusing one's powers, being tacitly justified by M→R.

To conclude, it is difficult to determine not only what defense means with regard to terrorist attacks, but also what the proper means of defense are. Even if it is a case of self-defense, how one defends oneself or fights back is not legitimized automatically and absolutely. Proportionality matters. Self-limitation on the super-mighty side is called for. Defense is not inherently proper conduct. Conduct is proper or legitimate only when it is justified not merely by the self-defense JV, but additionally by a separate set of JVs that supplements it. So given America's overwhelming superiority in military might and the democratically un-checked uses of military means, with respect to the Afghan war, the questions are these: (1) are we Americans defending ourselves legitimately, and (2) how confident are we that M→R is not our tacit JV at times in our conduct? Addressing these kinds of questions is crucial because the issue regarding how M→R can play a justificatory role along with other JVs (for instance, self-defense) is complex. For example, while the JV of self-defense justifies one to act in one's defense, it might be M→R that ultimately tacitly justifies one to act in particular ways, using particular

weapons, in particular places, at particular times, and so on. If this is the case, then M→R might determine how we citizens, through our leaders and military, act—what weapons we use, how we use them, when we use them, where we use them, and so on. Is M→R ultimately the tacit JV for our use of drones? Does M→R as a tacit JV overcome the large potential collateral damage, the potential unfairness, and so on? Is this a case of military might justifying itself, by itself, through itself—a clear case of M→R1? Or is it a case of the illusion of righteous-might: the righteousness expressed by one's nation's anthropodicy transferring itself to that nation's military might in its many forms and thus to its particular weapons[262] and thereby to their practically unreflective and unquestioned uses—a clear case of M→R2?[263] Or is it neither? I think and am trying to show that when M→R does play a role in war and if it has been playing a role in the American war in Afghanistan, then it is almost always in the form of the second case, the middle one, or a kind akin to it, akin to this kind of unwitting way.

2.4. An Exemplary Lesson[264]

By focusing on Operation Enduring Freedom as an extended illustration, we were trying to examine whether M→R can play a justificatory role in our—citizens of the

[262] From the perspective of *jus in bello*, there are different kinds of weapons or means, the clearly unjust or immoral ones, the justice-neutral or amoral ones, and the just and moral ones—no doubt for pacifists and nonviolence advocates, all weapons fall into the first category, but for those who accept just war theory, some weapons can fall into the other two categories, and so the issue is what conditions are required in order that the first kind (a kind that is in need of becoming one of the other two kinds) be transformed into one of the others: the condition of not unrighteous-might can transform the first into the second kind, while the condition of righteous-might can transform the first into the third kind, and thus weapons that might otherwise be considered suspicious regarding their being used justly can become free of such suspicion by becoming anointed as kinds of means that can manifest either a not unrighteous-might or a righteous-might.

[263] With technological weapons that make possible fighting with some emotional distance or, at the extreme, emotional absence—e.g., drones, computerized tanks that transform human targets into video-game icons—critical reflections should lead to this question: Are the uses of these kinds of weapons at some point justified merely by M→R?

[264] As noted in ch. I, Thucydides tells us that "war is a stern teacher": What can we can learn here?

strongest military nation—willingness to accept and support our wars and our conduct in them, particularly our more recent wars, wars whose justifications on close, critical examination seem to be mere rationalizations or even post hoc excuses and not even explanations.[265] Of course not all U.S. citizens support American wars. This essay is examining, from the perspective of M→R as a tacit JV, the supporters' kind of thinking. As a concerned citizen of one of the mightiest nation state, I wonder whether my nation is abiding by M→R, whether my nation's super-mighty military might confuses us citizens, including political and military officials in power as well as soldiers, so much that we abuse it. The point of this examination is that given the confusing tendency of might, there should be cause for concern for all of us citizens regarding the role that M→R might play in our nation's going to war and conduct therein. Although leaders might reassure us regarding the clear justice of the strategic ends and the military means,[266] we need to remain vigilant, particularly we citizens of super-mighty nation states. We American voters as citizens of such a super-mighty state—one of the mightiest nation states, perhaps *the* mightiest one, at least, militarily—have a responsibility to insure that our super-might is not used unjustly, that we don't unwittingly abuse our military might, that we don't confusedly abide by M→R.

In a national and contagious atmosphere of moral slumber, it is too easy to rely on an anthropodicy like American exceptionalism that justifies our national actions and makes it seem as if it were always the case that our nation's might makes right. We need

[265] I have rarely come across a compatriot who justified our wars solely in terms of self-interest and national security without including some exceptionally altruistic American tendency to care about others, etc.

[266] Cf. the Bush administration's reassurance: "The reasons for our actions will be clear, the force measured, and the cause just" (*The National Security Strategy* sect. 9), or President Obama's "right makes might."

to examine critically questions such as the following one: What if we often do go to war simply because we can do so given our immense degree or even our rare kind of immunity and impunity, misinterpreting these qualities as evidence of our righteousness and of the righteousness of our might?[267] Here is a sample of a critical examination that any American citizen can undertake. President Obama's confident declaration that for us Americans right makes might not only is an inversion[268] of the maxim, but also, and what is paradoxically significant, may be an indirect announcement that our might makes right. Our acting is righteous and gives us our might, yet our acting presupposes our ability to act as we choose and thus presupposes our might, and thus, ultimately, it may be solely our might that is allegedly making our actions righteous—the inversion thus inverting itself and thereby re-establishing and reinforcing M→R. Unfortunately, our super-might makes our acting as we choose not only possible but also probable; furthermore, this super-might also colors the rhetorical declarations, giving them a patina of truth. Fortunately, as this brief analysis on inversions shows, critical inquiry into truth has a tendency to uncover circularities and inconsistencies.

What might the rhetoric of leaders teach concerned citizens who critically examine the declarations and the justifications? Here is another sample of a critical examination that any American citizen can undertake. How is a concerned American citizen to reconcile American leaders' and compatriots' appeals to just war theory in order to justify the American war in Afghanistan with appeals to American exceptionalism, to American righteous-might always making right, that is, to this American

[267] Immense immunity and impunity might give those who enjoy them a false sense of specialness, exceptionalness, and thereby self-righteousness.

[268] This inversion is thus, at least, an allusion to M→R and thereby an admission, though an implicit one, that M→R is still relevant, still at issue.

anthropodicy?[269] What, in the end, justifies Americans going to war in Afghanistan—self-defense or self-righteousness? If the latter, then why need the former: if our might is righteous and thereby makes only right, then why need additional JVs, why need appeals to just war theory, to justice, to self-defense, to national security, and so on?

Some, preferring a cynical or realistic explanation, might say that talk of our righteous-might or of our right makes might is the expected rhetoric, the expected self-congratulatory self-assessment, the expected self-praising self-characterization, the expected and historically preceded reference to our exceptionalism, and that, therefore, our additional appeal to just war theory and our demonstrations that our actions are thus justified is required and substantial.

This cynical or realistic perspective might be true to some degree, for some leaders, some of the time, but unlikely to be true for almost everyone, not even most leaders, most of the time: what matters is what we—citizens and officials alike or, at least, most of us—think in this regard. Do we, generally, take our exceptionalism as mere rhetoric? Don't we as well as our leaders, somehow, from constant and continuous repetitions of our exceptional *ethos*, begin to believe our anthropodicy? Whatever we do, however we act, we can rest assured that our righteous-might makes right. Of course, this assurance runs the risk of being upset not only by critical examination of the declarations,

[269] Another recent example is from OIF: we Americans fight in Iraq for the good of the oppressed Iraqis, to remove the oppressing tyrant, and so that we don't have to fight in our homeland. How can these two JVs both be true? Are we fighting in Iraq, thereby endangering Iraqis, for their own good? Or are we fighting there for our own good: in order to avoid endangering ourselves by fighting in our homeland? Is the goal the removal of Iraqi oppression or the insurance of American protection?

as shown above, but also by critical reflection on the recurring re-assurances, the constant re-assuring re-declarations and re-protestations of our being the exceptions.[270]

Furthermore, it seems that as much as one, as a member of a particular people, might trust one's people's anthropodicy, one, as a member of the species *homo sapiens*, feels the need to appeal to other JVs to insure that one's people's ways are righteous. Thus we as members of a particular people believe our people's anthropodicy, yet, just in case, we apparently inconsistently appeal to other JVs, feeling the need to insure that our grounds are covered. This apparent inconsistency, nonetheless, might well make some sense. For in moments of critical reflections, we members of a people *qua* humans are all potentially vulnerable to the exposure to the cold clarity of the following kinds of realizations, to the anxiety and crises of conscience they can cause. What if our exceptionalism is due partially to our might—we're mighty, so we win wars and get our ways, and so we believe we are excellent and exceptional? What if we are, after all, like all other nations, other peoples, unexceptionally justified in defending ourselves and looking out for our best interests? What if like all other peoples, we always have a tendency to think that our ways are always justified, that our anthropodicy always obtains, that our exceptional ethos always manifests itself in our actions?[271] As discomforting as these kinds of questions can make us feel, they can also be a source of hope.

[270] For example, President Obama's insisting that there is no inconsistency in American policy—why the need to do this? Is there a concern of inconsistency between issues of security and interest and issues of right and values, etc.? Again, why the need to re-assert and re-justify? Are our leaders protesting too much?

[271] See the note in ch. II, in "Anthropodicy" on the notion of *anthropophany*.

In the spirit of the preceding critical examinations, let's try to address the following question. Given the power of tacit consent, what ought to be our responsibilities as citizens of democracies regarding war?[272] At a minimum (and pacifists might already object here), it ought to be our insuring that our nation abides by the *jus ad bellum* and the *jus in bello* principles?[273] We need to wonder and critically examine our actions and justifications. And, even if, after critical examinations, we democratic citizens—particularly, we citizens of nations endowed with super-mighty military might—support a war and find it justified, we need to continuously re-examine the justifications and thereby the legitimacy of the war as well as our conduct as long as the war is on-going. In re-examining the JVs, we need to attend to what our military is doing, to heed what our leaders are saying about the war and our conduct therein, to wonder why we do not debate and deliberate much over our conduct.[274] We need to continuously check that we are not strategically and militarily abiding unwittingly by M→R.[275]

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[272] Whether regarding entering a war or the ways of engaging it, tacit consent can rule: e.g., unless citizens express their opposition to the use of drones, these will be used, for the default is that the military under the guidance of the politically elected officials decide what are the right and proper military means by default, with the exception of commonly recognized illegal and controversial means such as chemical or biological or nuclear weapons, (in short, WMDs), or torture.

[273] In the three-hundred-plus pages of his *Just and Unjust Wars*, Michael Walzer dedicates seventeen pages to the political and moral responsibility regarding "The Crime of Aggression: Political Leaders and Citizens" (287-303). As regards the responsibilities of citizens who are not in political offices or bureaucracies, he dedicates eight pages discussing their "Democratic Responsibilities" (206-303). My pointing out this imbalance is not a criticism of Walzer's work, but evidence of the negligence of the issue. For a critique of the traditional just war theory, one that reflects the need to increase the burden responsibility for insuring that a nation is fighting just wars by just means to all citizens, including the soldiers at the front lines, see Jeff McMahan's "Rethinking the 'Just War'" parts 1 and 2 (a *New York Times'* editorial, accessibly written for all citizens) as well as his more scholarly "The Ethics of Killing in War."

[274] What about patriotism, some might ask, the patriotic responsibilities of the citizen? I would like to let Voltaire initiate a reply: "it is sad that in order to be a good patriot one is very often the enemy of the rest of mankind" (29). Is not the concerned citizen's insurance that the citizen's nation only fights just wars, or, at least, does not fight unjust ones, an act of patriotism? These objectors might, nonetheless, be suspicious of such citizens' critical examinations and appeals to just war theory, interpreting them as implicit pacifist rejections of any war, as ultimately unpatriotic. This seems to be a perennial issue and thus not one to be resolved in a footnote; I would thus like to simply note the following. Since almost all the citizens of

3. Do Other Kinds of Might Make Right?

There are as well unwitting abuses of powers in the name of love, care, duty, and so on. Since all agents have powers, all are liable to abuse them unwittingly. Due to space constraints, I may only briefly refer to or merely list a few kinds of typical cases that may illustrate the many kinds of unwitting abuses of powers in various realms. These kinds of abuses may be due in part to the unlikelihood that one would reflect on one's uses of one's assumed legitimate powers when the uses are not obviously prohibited. How often does one examine whether one's use of one's power is legitimate? Isn't it more typical, in the absence of prohibitions, for one to use one's powers without thinking about the legitimacy of their use? When using powers personally, professionally, socially, politically—in almost any context—the normal way is that unless it is clearly, specifically, explicitly, precisely prohibited, one unreflectively acts. One assumes, without bringing the assumption to one's mind for examination, the legitimacy of one's use of power. One assumes, in this unreflective way, that one's might is either righteous or not unrighteous. This kind of uncritical assumption of legitimacy, which the absence of prohibitions leads to, is so overwhelming, so overriding that it is the normal way. Normally, one does not examine one's use of one's powers; one automatically uses one's powers unless one is made aware of the potential abuses.

How often and under what circumstances do teachers, for example, wonder whether the use of their powers is legitimate? Given the legitimacy that teachers receive

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almost all nation states are unlikely to be pacifists, the focus on just wars, as the presidential declarations above seem to show, is far from being the focus of unpatriotic citizens.

[275] We might learn from the nonviolence advocate Adin Ballou's "'Might makes right,' and hoary folly totters on in her mad career escorted by armies and navies" (47), even if few nowadays would explicitly accept and appeal to the "tyrannical assumption that 'might makes right'" (116).

from their official position, they automatically use their powers—including policing, punishing, and rewarding powers. Some of these powers might be officially declared and specified by legislatures, institutions, or departments in written form or through widely accepted norms and policies, while others remain undeclared and unspecified and are thus left up to the teachers' discretion. This discretionary power is ideally legitimated by the teachers' qualifications, which played a role in determining the teachers' meritorious status at the time of the corresponding appointments. This power structure and dynamics give teachers much leeway and many opportunities to decide how to use their powers, thereby running the risk of abusing them unwittingly, while merely trying to pedagogically care for their students, to establish fair procedures, to perform their teaching duties, and so on.

This example of the structure and dynamics of teachers' powers can serve as an exemplar for those of other office holders or similar responsible agents—politicians, police officers, military officers, coaches, managers, administrators, doctors, lawyers, supervisors, and so on. In all these cases there are similar kinds of power structure and dynamics, namely, structures that declare and specify, in writing or through customs, some powers, with the dynamics of leaving many other powers to the discretion of the office holders. Even in the case of less formal or unofficial kinds of power structures and dynamics, a similar principle of use of powers obtains: persons—parents, guardians, siblings, friends, colleagues, neighbors, and so on—with certain powers need to determine how to use them appropriately in order to accomplish whatever needs accomplishing, and, in the process, with the best of intentions, run the risk of unwittingly abusing their powers.

In sum, given that all of us agents have powers, all of us run the risk of unwittingly abusing our powers, of unwittingly living by M→R. There is no need for a cynical explanation regarding abusive tendencies, nor can such an explanation address the extended set of abuses under examination.[276] The foregoing non-cynical explanation based on self-deceptive equivocations—an explanation that shows how anyone can equivocate and thus slip from M→R2 to M→R1—seems to account for the indefinite number of unwitting abuses of powers, abuses fallaciously—not maliciously—motivated.

[276] See also the section above on abusing powers.

CHAPTER IV

ON THINKING AND ACTING — TOUCHSTONE THEORIES

We are what we think.
Dhammapada[277]

A man ends by becoming what he thinks.
Gandhi[278]

Can a tacit JV through unwittingly fallacious thinking motivate acting in the way that I claim it does? Answers to this question and related ones comprise the bulk of this chapter, whose aim is to examine theoretical views to prove, in the broad sense of the term—that is, both to check and to offer support for—my assumptions, my explanation, and my method of relating the two activities of thinking and acting.

In sect. 1, I present the context of proof. In sect. 2, I examine views in the philosophy of action and in related areas. In sect. 3, I examine psychological views, focusing primarily on moral psychology, within the heuristics research program. In sect. 4, I examine the rhetorical views of Chaïm Perelman, focusing on his notion of dissociation. Finally, in sect. 5, I examine logical views, focusing on fallacy theory to prove my application and extension of the fallacy of equivocation.

1. Proving Context

In 1.1, I specify the relevant kind of proof; in 1.2, I clarify key terms; in 1.3, I present my assumptions on the relation between thinking and acting.

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[277] This is the opening verse of this Buddhist text. Cf. the opening verse of *The Gospel According to John*: "In the beginning was the Word": "The *Word* (Greek 'logos') of God is more than speech; it is God in action" (*The New Oxford Annotated Bible* 125 NT). *Logos* also means "account, reason" (Peters 110).

[278] (Merton 19). Cf. Jesus on thinking as sinning in the "Sermon on the Mount."

1.1. Proving the Mental

What counts as a theoretical support, refutation, or challenge regarding the relation between thinking and acting? Theoretical support for a universal proposition on this relation is unavailable and likely to remain so; such support for a qualified proposition in the form of a modal proposition of possibility, however, is available with an offering of a single example; nonetheless, the availability of such an example for a proposition regarding a mental activity, which is inherently invisible, remains at issue, with the example being open to varying interpretations. Thus, at best, support for a proposition asserting the possibility of an effective relation between thinking and acting remains at issue. Although a theoretical refutation of a universal proposition is possible with a single counterexample, a refutation of a possibility is hard to come by since it calls for support for the universal contradicting the possibility, and in the mental realm such support remains at issue. So what is most likely available is tentative support or an apparent challenge, the former being non-refuted or unchallenged evidence, and the latter, a non-disqualified or widely accepted counterexample.

1.2. Conceptual Clarifications

What is tacit about a tacit JV? Is a tacit JV a tacit assumption or a tacit argument or line of reasoning? More generally, is a JV an assumption or an argument or both? I rely on the interpretation of a justification as an argument or a line of reasoning. An assumption in the form of a maxim such as M→R can be interpreted as an enthymeme, that is, as an argument or a line of reasoning in which not all the parts are explicitly stated. Thus a tacit assumption of this kind is a kind of tacit enthymeme.

1.3. My Thinking-Acting Assumptions

My basic line of reasoning can be summed up thus: (1) thinking can affect acting;[279] (2) tacit assumptions can affect thinking; (3) so, tacit assumptions can affect acting.[280]

Here are the assumptions upon which my argument relies.[281]

ATA1 — thinking can affect acting.

ATA2 — fallacious thinking can affect acting.

ATA3 — thinking can be based on tacit assumptions.

ATA4 — partially tacit thinking can affect acting.

ATA5 — tacit JVs can affect acting.

2. Philosophy of Action and Related Areas[282]

> [The] universal premise is an opinion, but the other sort of premise is concerned with particulars, which are governed from the start by sense-perception, and when one conclusion comes from them, it is necessary then for the soul to affirm it, and in reasoning about doing something, for one to perform the action at once. . . . [T]he premise that comes last and governs actions is an opinion about something perceived.
>
> Aristotle[283]

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[279] As I explain above, especially in ch. II, in the "Not Just Thinking" section, although I am focusing on the thinking activity, I am not excluding the role of other mental activities.

[280] If our unexamined or tacit presuppositions have no effects on our thinking and thereby on our acting, then why do we need to examine them? I return to Socrates' saying in ch. V.

[281] If, indeed, I have some tacit assumptions that are affecting my reasoning, my thinking, and thereby my composing and thus my acting, well, then, that seems to be more support for my basic line of reasoning.

[282] This section presents merely a sketch of areas of philosophy that seem to have some relations to my examination. The scope of my essay limits my presentation.

[283] Although here, in the *Nicomachean Ethics* 1147a-b (Sachs), Aristotle is examining the issue of incontinence, the so-called practical syllogism applies to all practical reasoning or reasoning regarding actions. Here are two other translations: (i) "one belief is universal; the other is about particulars, and because they are particulars, perception controls them. And in the cases where the two beliefs result in one belief, it is necessary, in one case [the theoretical], for the soul to affirm what has been concluded, but, in the case of beliefs about production [the practical], to act at once on what has been concluded. . . . [T]he last premise is a belief about something perceptible, and controls actions" (Irwin); (ii) "One belief is universal, while the other is concerned with particulars, a sphere controlled by perception. When a single belief emerges from these two, the soul must in one kind of case [the theoretical] affirm the conclusion,

How does my examination relate to some apparently relevant specific areas of studies in philosophy such as the philosophy of action, the theories of motivation including moral motivation, those of practical reasoning, and so on? In this section, I try to show the relation and the kind of support these theoretical views can offer my examination. In 2.1, I present the issues that are still controversial. In 2.2, I try to show the status of my assumptions and the kind of support these views can offer, along with, in 2.2.1, a potential challenge from phenomenology. In 2.3, I sketch a model of my explanation on the basis of the practical syllogism.

2.1. Ongoing Issues

Contemporary philosophy of action, some claim, begins with the publications of G. E. M. Anscombe's examination of the notion of intention[284] and Donald Davidson's causal examination of action in "Actions, Reasons, and Causes."[285] Anscombe traces her work back to Aristotle and his discovery of the practical syllogism.[286] The ongoing debate about the correct interpretation of this kind of syllogism or of practical reasoning is a fundamental issue.[287] At its most fundamental level, the philosophy of action

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while in matters of production [in the practical case] it must immediately act. . . . [T]he last premise is both a belief about what is perceived, and controls actions" (Crisp).

[284] She presented her work first in essay form as "Intention" and then in book form as *Intention*.

[285] For a brief historical summary, see, e.g., Luca Ferrero's "Action" p. 6 n.1.

[286] She presented her first essay on the subject, "Intention," at the Proceedings of the Aristotelian Society. In her book-length examination, *Intention*, she asks rhetorically, "Can it be that there is something that modern philosophy has blankly misunderstood: namely what ancient and medieval philosophers meant by *practical knowledge*?" (57). She continues, "The notion of 'practical knowledge' can only be understood if we understand 'practical reasoning'. 'Practical reasoning', or 'practical syllogism', which means the same thing, was one of Aristotle's best discoveries. But its true character has been obscured" (57-58). She then goes on to examine and use Aristotle's examples, relating them to her own, in order to explain how to interpret properly the practical syllogism, the "practical syllogism proper" (58-62).

[287] See, e.g., John McDowell's "What Is the Content of an Intention in Action?" pp. 422-24, on Davidson's misinterpretation of the practical syllogism. I return to this issue below, especially in section 2.3.

addresses questions regarding the nature of action or agency.[288] These questions imply other questions such as ones regarding the mental states of believing, desiring, and intending; the relation between these states and bodily movements as well as the nature of the relation, whether it is causal or some other motivating relation; issues of responsibility as well as of identity; and so on. In his essay "Action" Luca Ferrero summarizes clearly the issues thus:

> Action is, at least in part, a matter of the operation and existence of mental events and states, such as decisions, intentions, desires, and beliefs. Several questions arise at this point: Which psychological features are required for agency? Which mental states and events are required for action? How are these mental components related to each other and to the bodily movement? Is the relation causal, justificatory, or both? If the latter, how are justification and causation related? And what is an action, exactly? The movement produced by the proper mental components, the operation of the mental elements alone, or some combination of the movement and the mental elements? Finally, how do the answers to these questions account for the role of the *agent* and the special importance that we attribute to actions as both expressions of our 'true selves' and as proper objects of accountability and responsibility? (3)

Some of these issues have been and continue to be addressed by inquiries in other areas of philosophy such as the philosophy of mind and ethics. As its name indicates, the philosophy of action takes action as its starting point; furthermore, since it is the intentional kind of action—the "*full-blooded intentional agency*" (Ferrero 3)—that is at issue, it makes sense that Anscombe's examination of intention forms its origin.

That there are ongoing issues in a given area of philosophy is a given. What is enlightening about the reports on the examinations of the issues regarding action theory is

[288] Luca Ferrero points out that since "the ultimate aim of the philosophical investigation of action is to understand the nature of agency. . . . although it is customary to refer to this investigation as 'philosophy of action' (and sometimes as 'action theory'), 'philosophy of agency' would be a better and more comprehensive label for it" (5).

how many of them stress the ongoing debate[289] and the lack of consensus on some of the most fundamental points. Among others, Ferrero, Wilson, and Setiya emphasize the ongoing nature and openness of the debate thus:

> The debate over the nature of action-explanation is still open. (Ferrero 8)
>
> [Some claim that] the standard story of action is wanting. (Ferrero 11)
>
> [I]t should be admitted that no one really has a good theory of how mental content plays its role. . . . the attribution of content may still leave it murky how the contents of attitudes can be among the causal factors that produce behavior. (Wilson sect. 3)
>
> [T]he theory of intending . . . remains incomplete. (Setiya sect. 1)

Ongoing issues include ones such as the status of bodily movements,[290] the nature of actions' antecedent conditions, whether an action-explanation is causal or rational,[291] whether internal reason are sufficient and external ones unnecessary,[292] whether there is a

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[289] Stephen Finlay and Mark Schroeder dedicate a whole section—"4. The Debate Today"—of their essay "Reasons for Action: Internal and External" on the ongoing debate. See also, e.g., Ferrero's "Action" (20, 24, 25); George Wilson and Samuel Shpall's "Action" especially sections 1.2 and 3, referring to "a basic metaphysical mystery" in the former (cf. Davidson's mysterious connection (693)), while pointing out in the latter that "the issues here are complicated and controversial"; Kieran Setiya's "Intention" sections 4 and 5; and Connie S. Rosati's "Moral Motivation" sect. 3.

[290] See, e.g., Ferrero on Davidson's views on bodily movement as basic actions (18); Wilson and Shpall sect. 1.2; Setiya sect. 2; McDowell's "What is the Content of an Intention in Action?" (416); Davidson pp. 687, 692, 695; and Andrew Sneddon's challenge in "Does Philosophy of Action Rest on a Mistake?" to Davidson's foundational interpretation (519-20).

[291] The debate here begins with Anscombe, arguing for reasons, and Davidson, making a case for causes. Anscombe, in "Intention," having made the case for reasons over causes, writes, "the more the action is described as a mere response, the more inclined one would be to use the word 'cause'; while the more it is described as a response to something as having a *significance* that is dwelt on by the agent, or as a response surrounded with thoughts and questions, the more inclined one would be to use the word 'reason'" (331). Davidson counters with this: "What is the relation between a reason and an action when the reason explains the action by giving the agent's reason for doing what he did? We may call such explanations *rationalizations*, and say that the reason *rationalizes* the action. . . . [R]ationalization is a species of ordinary causal explanation" (685). For an examination of this disagreement as well as the ongoing debate, see, e.g., Ferrero (5-8); Richard Norman's "Practical Reasons and the Redundancy of Motives" pp. 3, 6, 8-11, 15, and 21.

[292] Bernard Williams begins the examination of this issue in his "Internal and External Reasons"; the issue becomes more complex, with the analysis of further nuances in the distinction (see, e.g., Stephen Finlay

need for a foundational action theory,[293] how justifications relate to explanations,[294] whether a phenomenological perspective would not get closer to the actual phenomena,[295] and so on.[296]

How do these kinds of philosophical issues and corresponding inquiries, then, relate to my examination? I examine further this relation in the sections below; it suffices here to point out the following. It is obvious and not surprising that what is at issue is not *that* there is a relation between thinking and acting, but rather *what* that relation is. *That*

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and Mark Schroeder's "Reasons for Action: Internal vs. External" especially sect. 1.1, which distinguishes existence internalism from judgment internalism; and James Lenman's "Reasons for Actions: Justification vs. Explanation" sect. 3, in which he presents further distinctions and nuances.

[293] See Sneddon's "Does Philosophy of Action Rest on a Mistake?" in which he proposes a "non-foundationalist action theory" (502, 516, 520-21), rejecting the notion of basic action (509), pointing out the confusion over status issues vs. production issues regarding actions (506).

[294] See the note above on internal vs. external reasons as well as the following: Davidson on the non-reciprocal dependence of justifications on explanations (690); and Ulrike Heuer's "Reasons for Actions and Desires" on the relation between justifications and explanations (44, 45).

[295] See, e.g., Hubert Dreyfus's critique of McDowell's over-conceptualized views in the former's "Overcoming the Myth of the Mental: How Philosophers Can Profit from the Phenomenology of Everyday Expertise"; and David Woodruff Smith's "Consciousness in Action" in which he makes the following distinction: "It is important to distinguish phenomenological problems from metaphysical problems. . . . In action, *how*, is the *mental* state of willing related to (and *how* can it *cause*) the *bodily* state of moving and thereby doing such-and-such? That is a metaphysical problem. But another sort of mind-body problem arises in the phenomenological description of action. Conscious action involves awareness of one's volition and one's bodily movement. What is the relation between volition and bodily movement as experienced in conscious action? That is a phenomenological problem, formulated at the level of phenomenological description (120).

[296] An example of one of the ongoing issues is the issue of motivation and its relation to moral judgment, which Connie S. Rosati, in "Moral Motivation," captures as follows: "Philosophers have most often attempted to explain moral motivation not by appealing to the special powers of moral properties but by appealing to the nature of *moral judgments*. . . . Efforts to understand moral motivation by moral judgments must confront two central questions. First, what is the nature of the connection between moral judgments and motivation—do moral judgments motivate *necessarily* or do they motivate only *contingently*? Second, can moral judgments motivate on their own or can they motivate only by the intermediation of a desire or other conative state? Of course, philosophers have answered these questions in varying ways" (sect. 3). "The real puzzle as to how moral judgments can motivate arises for those who maintain that moral judgments express *moral beliefs*, for the connection between belief, a cognitive state, and motivation is uncertain" (sect, 3.1).

thinking can affect acting is not controversial; *how*[297] it can do so, however, is at the heart of the ongoing debate. It is beyond the scope of my examination to enter the debate regarding the nature of this relation or *how* thinking affects acting: that the former *can* affect the latter—or, at least, can do so under certain circumstances, ones that I examine further below—is sufficient for my purposes.

2.2. Supporting Assumptions

Depending on their interpretation, the assumptions regarding the relation between thinking and acting that I rely upon seem to be either uncontroversial and universally shared or shared by a significant number of scholars and schools of thought.

ATA1 is universally shared if it is interpreted as the proposition that thinking, along with other mental states or conditions, can affect acting; if, however, it is interpreted as the proposition that thinking is a sufficient condition for acting, then it is shared only by those who think that conative states or conditions are *not* necessary. My explanation works with the second kind of interpretations and can work with some interpretations of the first kind: for example, if a conative state of, say, the desire to act justly, were required to supplement or complement the relevant cognitive states, my explanation would still work. The first kind of interpretations fall within the view that combines cognitive and conative conditions and is often referred to as the Humean view on reasons and motivations. It follows from Hume's stress on the passions, the conative conditions, as the driving force motivating reason by necessarily complementing its

[297] On the *how* issue, in addition to the notes above, see, e.g., Anscombe "*how*" ("Intention" 325); Wilson and Shpall's "murky how" (sect.3); Sneddon what vs. how (517); and Norman (3, 6, 15, 18), making the case that since we are always acting—"There are no reasons for acting, there are only reasons for actions"—there is no need for motivation to bridge "the gap between reasons and actions" (8).

cognitive conditions.[298] Thus, for instance, Rosati, James Lenman, and Wilson characterize the Humean view as one pointing to the insufficiency of belief as motivation:

> According to the Humean view, belief is insufficient for motivation, which always requires, in addition to belief, the presence of a desire or conative state. (Rosati sect. 3.1)[299]
>
> [M]otivating reasons are understood . . . as complexes of beliefs and desires that motivate actions. (Lenman sect. 5)
>
> We suppose . . . that the agent did what he did because the having of the pro-attitudes and belief were states with (respectively) a conative and a cognitive nature, and even more importantly, they are psychological states with certain propositional contents. (Wilson sect. 3)[300]

The second kind of interpretations of ATA1 falls under the view that argues for the sufficiency of cognitive sates or conditions and is called the anti-Humean view. This view claims that beliefs by themselves, without the motivating force of desires, can

[298] See, e.g., Finlay and Schroeder, sect, 1.2: "One of the historically most important version of reasons internalism is an Actual State view according to which the actual states connected to reasons are *desires*. Due to its rough affinity to David Hume's view of the dependence of morality on the passions, this view is often called the 'Humean Theory of Reasons', despite controversy over whether Hume himself held any such view." Finlay and Schroeder then go on to indicate the following distinction: "The Humean Theory of Reasons (HTR): If there is a reason for someone to do something, then she must actually have some desire that would be served by her doing it," and "The Humean Theory of Motivation (HTM): Desires are necessary and beliefs are not sufficient for motivation." See also Lenman, sect. 4; Driver, sect. 3; Wilson and Shpall sect. 3.; Heuer; Elijah Millgram's "Practical Reason and the Structure of Actions" sect. 1 and 4; and Williams, especially his coinage of "*the sub-Humean model*" to capture the simplistic interpretations of Hume's views (102).

[299] The title of this section of Rosati's essay is entitled "Humeanism v. Anti-Humeanism."

[300] See also these: "if someone has a reason to do A, then it follows by necessity that she *would* be motivated to some degree, or *would* desire to do A, in circumstances of a particular kind"(Finlay sect. 1.1.2); "Whenever someone does something for a reason . . . he can be characterized as (a) having some sort of pro-attitude toward actions of a certain kind and (b) believing (or knowing, perceiving, noticing, remembering) that this action is of that kind"(Davidson 685).

motivate one to act.[301] For instance, Stephen Finlay, Rosati, and Setiya thus characterize the anti-Humean view of the sufficiency of beliefs, practical thoughts, or maxims:

> [There is] an idea that many philosophers have accepted; namely, that beliefs (either in general or of a specific kind, such as beliefs about reasons) can motivate action by themselves and independently of desire. (Finlay sect. 2.1.1)
>
> [M]oral belief can itself give rise to motivation. (Rosati sect. 3.1)
>
> [M]otivation reliably *shifts* so as to track changes in our moral beliefs. (Ibid)[302]
>
> [A] belief . . . has the power to guide and motivate action through practical thought. (Setiya sect. 5)
>
> [W]hen I act for reasons, those reasons figure in my intention as a Kantian maxim.[303] (Setiya sect. 2)[304]

As a qualified version of ATA1, ATA2 gets the same scholarly support. Additionally, it is supported by Rosati's point regarding "failure of motivation,"[305] Finlay's point

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[301] In addition to the citations above, see Finlay sect. 1.2.3 and Rosati, especially sect. 3.1.

[302] See also Rosati above, on the relation between moral judgments and moral motivations.

[303] Cf. M→R as a maxim.

[304] See also these: "An action is the kind of happening that can be made intelligible, rationalized, assessed, and justified by appealing to reasons" (Ferrero 6); "critical discussions . . . have stimulated interest in the idea of the *rationality* of intentions, measured against the backdrop of the agent's beliefs and suppositions" (Wilson sect. 2) (see also sect 1.1); "only a particular type of moral belief—one tied to an ideal or complete conception of a situation in light of a more expansive understanding of how to live—necessarily generates in an individual a motivation to do as a moral belief of that type indicates she ought" (Rosati Sect, 3.1); "*Normative* reasons . . . play an *explanatory* role. Or, more precisely, *beliefs about* normative reasons play such a role for people who are practically rational" or "Of course it's true that we tend to act in accordance with our beliefs about what we have reason to do" (Lenman sect. 5); "moral judgements provide *reasons* for actions" (Norman 13), [and it is an] "incontestable fact that people act for reasons" (Norman 15); "If A believes that he has a good reason to *Φ*, and he does *Φ*, nothing else is needed to bridge the gap between his believing he has the reason and his *Φ*-ing, or between his believing he has the reason and his being motivated to *Φ*" (Norman 18), (See also Norman on the relation between belief and action (5, 11, 17, 18), reason and action (9), and justification and action (13), as well as his point that motivation adds nothing to a reason to act (14).); "My conclusion is that practical reasons should be based not on desires, but on values" (Heuer 43); "If someone guides his life by a certain conception of how to live, then he acts, on particular occasions, so as to fulfill suitable concerns" (McDowell "Virtue and Reason" 343); "the orectic [i.e., appetitive (from *orexis* appetite)] state cited in an explanation of a virtuous action is the agent's entire conception of how to live" (Ibid 343); "I am [concerned] with the expression in action of a specific conception of how to live" (Ibid 349 n. 26) (see also pp. 344-46).

regarding agents' "mistaken" view on their reasons for acting,[306] Lenman's similar point regarding agents' incorrect assessment of their reasons,[307] and Ulrike Heuer's point regarding the lack of justificatory power of "beliefs" that are false.[308]

ATA3 seems to be universally shared given the generally accepted notion of unexamined presuppositions as well as the position that one's having such presuppositions can affect one's thinking.[309] Tacit assumptions, furthermore, can also be seen as implicit or unconscious[310] or automatic or in some other non-explicit[311] mode depending on the area of study and on the scholar's perspective and emphasis.[312] For instance, while Setiya and Lenman use the language of consciousness, Anscombe uses that of explicitness:

> [T]he knowledge . . . need not be conscious or 'occurrent.' (Setiya sect. 5)

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[305] She points out that "a failure of motivation springs from a cognitive failure" (Rosati sect. 3.1).

[306] "As Williams observes . . . we can act in ways for which we lack any actual practical reasons (e.g. if we are mistaken about what our reasons are. . . . this problem arises due to agents' error and ignorance" (Finlay sect. 2.1.2).

[307] From the perspective of "*subjective* and *objective* reasons. . . . [there are] two kinds of justifying reason, the justifying reasons that apply to my circumstances as I, incompletely and perhaps incorrectly, understand them (subjective reasons) and the justifying reasons that apply to my circumstances as they actually are (objective reasons)" (Lenman sect. 1). This kind of misinterpretation of situations is at the heart of my explanation's reliance on a fallacy.

[308] "False beliefs normally don't justify" (Heuer 45). For more philosophical support, see "Fallacy Theory" below.

[309] See notes above and my examination in ch. V regarding Socrates' saying. Cf. Jürgen Habermas on tacit assumptions—e.g., in *Theory and Practice*, (the title itself revealing of the connection between thinking and acting), premises or assumptions that are "presupposed ... and ... suppressed" (274) —as well as his notion of "a tacit philosophy of history" (*Ibid* 275).

[310] On unconscious activity, see Wilson (sect. 1), Ferrero (4), Finlay (sect. 1.1.2), Sneddon (516), and along with talk of self-deception, which relates to my explanation of unwitting equivocation, Norman (10, 17).

[311] For talk of automatic or non-explicit activity, see also Ferrero (5).

[312] Regarding my choice of the term "tacit," see above, in ch. II, the section on tacit justifications.

> An agent's reasons may well operate below the radar of her conscious self-knowledge. (Lenman sect. 1)
>
> [That as an agent I had reasons to sign a petition] need not mean: 'I thought explicitly of this before signing.' (Anscombe "Intention" 328)

Being entailed in part by the first three assumptions, ATA4 enjoys their support and, in turn, supports ATA5, which receives additional support from the views of those who argue for the possibility of a kind of implicit or unconscious motivating reasoning. Thus Ferrero points to the possibility of implicit motivation,[313] Williams to that of unconscious motivation,[314] and McDowell to that of motivation that is "as if" it were deliberate.[315] These just cited scholars seem to offer support for my assumptions. Some other scholars, however, might challenge the cognitive emphasis. One such challenge might come from those working from a phenomenological perspective; let's entertain one such challenge.

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[313] "These reasons need not be explicitly entertained and articulated by the agent. Nor does the agent necessarily act on good reasons. The important point is rather that a conduct is intentional only when it is in principle subjected to a demand for justification in terms of the agent's reasons for it (a request that in the limiting case might be discharged by claiming that one acted 'for no reason')" (Ferrero 6).

[314] With *S* being "the agent's subjective motivational set," *A* being an agent, and *D* being a member of S, "If *D* is unknown to *A* because it is in the unconscious . . . it may provide the reason why he *Φ*'s, that is, may explain or help to explain his *Φ*-ing. (Williams 102-03). See also these: "A clear example of practical reasoning is that leading to the conclusion that one has reason to *Φ* because *Φ*-ing would be the most convenient, economical, pleasant etc. way of satisfying some elements in *S*, and this of course is controlled by other elements in *S*, if not necessarily in a very clear and determinate way" (Williams 104); "No doubt there are some cases of an agent's *Φ*-ing because he believes that there is a reason for him to *Φ*, while he does not have any belief about what that reason is. They would be cases of his relying on some authority whom he trusts, or, again, of his recalling that he did know of some reason for his *Φ*-ing, but his not being able to remember what it was" (Williams 107); [There is] "the everyday assumption that we sometimes . . . do something because it is right or justified" (Heuer 47); "Perhaps it is not necessary that there is an explicit thought that the action is right. The person may just respond to something that she took to count in favour of the action. The phenomenology of 'responding' is not confined to the case where one thinks that the action is right. (Heuer 60 n.9) (see also Heuer's "reasons [that] are 'fit to justify'" (45) as well as the point that justifying reasons are by definition good reasons (Lenman sect. 1)).

[315] "So I construe Aristotle's discussion of deliberation as aimed at the reconstruction of reasons for action not necessarily thought out in advance; where they were not thought out in advance, the concept of deliberation applies 'as if'" (McDowell "Virtue and Reason" 349 n. 22).

2.2.1. A Phenomenological Challenge?

McDowell, with his conceptual perspective, would seem to agree with the phenomenon of tacit JVs. Dreyfus, working from a phenomenological perspective, denies that such a conceptual emphasis explains the phenomenon of action. Having referred to McDowell on *phronesis*,[316] Dreyfus challenges his views as misguided by a conceptual and rationalistic foundation that misinterprets Aristotle's views on *phronesis*, views that, in fact, counter McDowell's conceptual perspective. Dreyfus thus develops his challenge:

> McDowell concludes that, given our second nature, we can "see ourselves as animals whose natural being is permeated with rationality." Thanks to our inculcation into our culture, we become sensitive to reasons, which then influence our "habits of thought and action." (50)
>
> One can easily accept that in *learning* to be wise we learn to follow general reasons as guides to acting appropriately. But it does not follow that, once we have gotten past the learning phase, these reasons in the form of habits still *influence* our wise actions. Indeed, a phenomenological reading suggests that Aristotle's account of *phronesis* is actually a counter example to McDowell conceptualism. (51)

Is Aristotle's account then also a counter example to my explanation? Dreyfus construes McDowell's views as conceptual all the way down through "engagement in the world as a *'conceptual* activity'" (50), and "a maxim behind every action" (52). Is this a challenge to my explanation, with M→R as the maxim? Dreyfus challenges even the implicit perspective regarding justifications as "retroactive rationalizations" (51, 55, 60), favoring instead a structure with non-conceptual ground floors (61). In addition to the architectural analogy, Dreyfus offers the analogy of learning to ride a bicycle. The rules one learns through a cultural formation are like the training wheels one uses in learning how to ride,

[316] Practical wisdom.

but these are left behind once one has learned how to ride, and certainly if one has become an expert rider (52).[317]

I do not think that Dreyfus' construal, even if correct, challenges my explanation, for even if it is true that some acting is not ultimately guided consciously or unconsciously by some kind of conceptually grounded practical reasoning, it does not follow that all acting is of this kind. Some acting might fall within the moral domain under some circumstances, even when done habitually as well as uninfluenced by the reasons that were initially learned. For example, even the common case of one's stretching one's limbs can, under the right circumstances, say, those of being in a crowded area, be transformed from an amoral to a potentially moral case, a case calling, after all, for moral motivation and justification. Any acting that is no longer cognitively or, as Dreyfus might say, conceptually guided can be transformed, under the right conditions, into one that is again so guided, as if one needed to put the training wheels back on, at least temporarily, until one was once again acting without guidance yet differently and properly thanks to the *re*-training wheels. It is with this kind of required re-cognitive acting,[318] a potentially moral kind of acting—a kind that lies behind any daily action—that I am concerned.

2.3. Practical Syllogism Modeling — A Sketch

Is there an interpretation of the practical syllogism or of some such kind of practical reasoning that could support my explanation? Given that I consider a JV an

[317] This phenomenological perspective is attractive in its apparent explanatory power, as Dreyfus stresses, regarding the phenomena of human infants' and animals' activities, but does it really challenge my views?

[318] I return to the issue of re-cognitive acting in my concluding chapter when I focus on potential control.

argument or a line of reasoning in enthymematic form[319] and that I rely upon the possibility of this reasoning being fallacious, could this picture map onto an interpretation of the practical syllogism?

What is the conclusion of a tacit JV? Or first, what is the conclusion of a JV more generally? Or yet even more fundamentally, what is the conclusion of a justification simpliciter? Is it some proposition declaring that the action is justified: whether the action is in the past, present, or future? Or is it, although perhaps verbalizable,[320] a justified action? That is, is the conclusion of a justification a declaration or an action? Some interpret the practical syllogism as a declaration;[321] others, as an action.[322] I think either way can work consistently with this examination since whether the conclusion is a declaration of justification and thus of permission that leads to action or the execution of a justified action, the phenomenon falls within the purview of actions calling for justifications.

Returning to the first question above, would these interpretations of the practical syllogism fit the phenomenon of the tacit JV? Isn't the syllogism—whether theoretical or

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[319] As with all maxims or such similar sayings, although they are usually only assumptions or assertions, they function enthymematically—i.e., as arguments with unstated parts, as partially assumed or stated lines of reasoning, so, e.g., the saying "All's fair in love and war" can function as the following implicit enthymeme: the saying itself functions as the universal premise, the particular premise is the unstated reference to the particular situation in the war at hand, and the conclusion is that in this particular war-situation, the called-for, war-related action is justified, etc.

[320] On verbalizing action-conclusion, see Anscombe (*Intention* 61).

[321] In addition to the modern tradition that Anscombe is critiquing (see below as well as *Intention* pp. 57-62), see, Davidson p. 690. Cf. Joseph Koterski's *The* Ethics *of Aristotle*, especially "Lecture 8: Struggling to Do Right"; David Roochnik's *An Introduction to Greek Philosophy*, "Lecture 23: Aristotle's Teleological Ethics"; and Robert C. Bartlett's *Masters of Greek Thought: Plato, Socrates, and Aristotle*, "Lecture 29: Prudence, Continence, Pleasure—*Ethics* 6-7."

[322] In addition to Anscombe, see, e.g., Setiya (sect. 2 & 5) as well as McDowell's critique of Davidson's interpretation in his "What is the Content of an Intention in Action?" (422-24), and his concluding words: "the proper form of expression for an intention in action is not a statement of what one should be doing but a statement of what one is doing" (432).

practical—an explicit argument or line of reasoning and thus not the proper model for an implicit or tacit line of reasoning? Is there an interpretation of Aristotle's discovery [323] that is a fitting one for tacit JVs? I think so since I understand tacit JVs to be lines of reasoning that are, at least, partially implicit and yet practically effective without being fully expressed. Anscombe interprets Aristotle's discovery as follows:

> It has an absurd appearance when practical reasonings, and particularly when the particular units called practical syllogisms by modern commentators, are set out in full. In several places Aristotle discusses them only to point out what a man may be ignorant of, when he acts faultily though well-equipped with the relevant knowledge. It is not clear from his text whether he thinks a premise must be before the mind ('contemplated') in order to be 'used', nor is it of much interest to settle whether he thinks so or not. Generally speaking, it would be very rare for a person to go through all the steps of a piece of practical reasoning as set out in conformity with Aristotle's models. . . . But if Aristotle's account were supposed to describe actual mental processes, it would in general be quite absurd. The interest of the account is that it describes an order which is there whenever actions are done with intentions. (*Intention* 79-80)

Thus Anscombe's interpretation of Aristotle's practical syllogism as not necessarily an explicit and complete syllogistic argument in the agent's mind but rather as a kind of "order" or implicit line of reasoning somehow motivating the agent acting intentionally seems consistent with my explanation and its reliance on tacit or implicit reasoning.[324] In his "Virtue and Reason" McDowell's interpretation of the practical syllogism also seems consistent with my explanation: he uses terms such as "quasi-logical label" and "argument-like schema" (342):

> The idea of a practical syllogism is the idea of an argument-like schema for explanations of actions, with the "premisses," as in the theoretical case, giving the content of the psychological states cited in the explanation. (342)

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[323] See above for Anscombe's own words on this discovery.

[324] This interpretation, with its talk of contemplation and full deployment as well as of ignorance and faulty acting, seems to support not only ATA3, ATA4, and ATA5, but also ATA2.

Here is a potential modeling of M→R as a tacit JV in terms of the practical syllogism within the context of my explanation. As with the theoretical syllogism, the practical one is composed of three parts: the major or universal premise, the minor premise, which for the practical syllogism is a particular premise, [325] and the conclusion.[326] Thus the first premise is the universal proposition or the general claim of M→R2; the second premise is the particular or factual situation, or more precisely, the agent's perception of a particular M→R1 situation as one falling under this universal; finally, the conclusion is either the agent's actualizing her potential or exercising her power—that is, acting—or the proposition or declaration of the justification and thus permission to act.

The key moment in this kind of implicit reasoning is the equivocation in the perception. The particular or factual premise reflects the agents' fallacious thinking in that they interpret the situation as an M→R2 situation—that is, as one being univocally consistent with the universal premise—when, in fact, it is an M→R1 situation—that is, as one equivocally inconsistent with the universal premise.[327] By thus committing the fallacy of equivocation, agents end up unwittingly living by M→R1.

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[325] Anscombe critiques the use of the terms major and minor of the theoretical syllogism as inapplicable, preferring instead "the first, universal, premise" and "the factual premise" respectively (*Intention* 58-59). In order to stress the point, she talks of the "practical syllogism proper" (60). For the full critique, see pp. 57-62 and 78-80. Cf. the "inference" entry in the glossary of Terence Irwin's translation of the *Nicomachean Ethics*: "When Aristotle mentions *sullogismos* about action (1144a31) he cannot have in mind a syllogism in the full technical sense (since *sullogismos* about action, unlike a strict syllogism, has a particular premise; the translation 'inference' (cf. 1149a33) avoids assuming too much. 'Practical syllogism' is a term often used by critics, but not by Aristotle, for the type of inference described in 1147a15. Aristotle does indeed speak of the conclusion (1147a27) and of a premise (1147b9; cf. 1143b3)" (335-36).

[326] See the epigraph and the corresponding note above.

[327] McDowell, examining the case of failing "to act virtuously," refers to the "clouded, or unfocused" perception due to "a desire" (334); although, I focus on fallacious reasoning and not on desire as well as on acting and not on failing to act, the problem is similar in that it is a problem of perception or, more, precisely, of misperception—that is, of the misinterpretation of a situation. McDowell adds this: "It would be a mistake to protest that one can fail to act on a reason, and even on a reason judged by oneself to be better than any reason which one has for acting otherwise, without there needing to be any clouding or distortion in one's appreciation of the reason which one flouts" (334). It is a similar kind of *clouding* and

3. From Cognitive Psychology — Heuristics[328] and Biases

In this section, I examine how my assumptions and explanation seem to be supported and perhaps challenged, though not refuted,[329] by views in cognitive psychology. None of the work that I have come across both in this and other areas of psychology seem to refute my views.[330] The scope of this essay, however, limits what I

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distortion that I envisage in the cases of equivocation with M→R since the fallacious thinking flows from a *distorted sense* of the situation.

[328] It seems a fitting segue from the practical syllogism to heuristics that Bernard Williams offers the following characterization: "Practical reasoning is a heuristic process" (110).

[329] In their introduction to "Moral Psychology: Empirical Approaches" John Doris and Stephen Stich present the view of experimental philosophy in the domain of morality, that is, the relation between philosophical and scientific work in psychology, neuroscience, and related areas. It shows how theories on each side can dialectically support, refute, or undermine theories on the other. Regarding my philosophical explanation, psychological theories can refute or challenge, check whether it is "empirically adequate" analogically thus: "there has been in recent years a growing consensus to the effect that an ethical theory committed to an impoverished or inaccurate conception of moral psychology is at a serious competitive advantage"; such a theory if it is not "eliminated" then it is at least "seen as less attractive." In his introduction to *Moral Psychology: Volume 2: The Cognitive Science of Morality: Intuition and Diversity* Walter Sinnott-Armstrong explains how evolution and brain theories check cognitive theories, including those from moral psychology. I try to show below that my assumptions and explanation seem to be "empirically adequate" and thus unlikely to be refuted even if perhaps challenged.

[330] My research in psychology is far from extensive and is limited to my philosophical interests and perspective, yet, as I try to show below, I doubt that there are some discoveries in psychology that would prove any of my assumptions false or my explanation impossible, even if they might show it to be improbable or implausible. Given my philosophical interest in critical thinking and fallacies, pedagogy and human development, the role of the emotions, and nonviolence, in addition to the references below, my research in psychology and related areas led me to the following works: *The Philosopher's Toolkit: How to Be the Most Rational Person in Any Room* by Patrick Grim; *Your Deceptive Mind: A Scientific Guide to Critical Thinking Skills* by Steven Novella; *The Art of Critical Decision Making* by Michael A. Roberto; *Games People Play: Game Theory in Life, Business, and Beyond* by Scott P. Stevens; *Philosophy of Mind: Brains, Consciousness, and Thinking Machines* by Patrick Grim; *Consciousness and Its Implications* by Daniel N. Robinson; *Great Philosophical Debates: Free Will and Determinism* by Shaun Nichols, especially "Lecture 15: Psychology and Free Will"; *Origins of the Human Mind* by Stephen P. Hinshaw; *Memory and the Human Lifespan* by Steve Joordens; *Optimizing Brain Fitness* by Richard Restak; *The Neuroscience of Everyday Life* by Sam Wang; *Effective Communication Skills* by Dalton Kehoe, especially "Lecture 4: The Operation of the Cognitive Unconscious," "Lecture 5: The Conscious Mind in Perception," "Lecture 6: The Conscious Mind in Using Language," "Lecture 7: The Conscious Mind and Emotion," and "Lecture 11: Conscious Self-Talk and Self-Management"; *Theories of Human Development* by Malcolm W. Watson; *How We Learn* by Monisha Pasupathi; *In a Different Voice* by Carol Gilligan; *Why Don't Students Like School?* by Daniel T. Willingham; *Looking for Spinoza: Joy, Sorrow, and the Feeling Brain* by Antonio Damasio; *Destructive Emotions: How Can We Overcome Them?* by Daniel Goleman; *True to Our Feelings: What Our Emotions Are Really Telling Us* by Robert. C. Solomon; *Questions of Value* by Patrick Grim; and *The Psychology of War: Comprehending Its Mystique and Its Madness* by Lawrence LeShan.

can examine and present properly and comprehensively.[331] Thus given my focus on fallacious thinking, I examine and present only the work on heuristics and biases, work that tries to explain many of the typical thinking errors humans suffer;[332] furthermore, given my focus on right and wrong acting, I focus especially on the heuristics work done more specifically in moral psychology. Although the work on heuristics and biases is more broadly concerned with rational deciding and acting in general,[333] the discoveries in this area can be and have been applied particularly to moral thinking and acting.[334]

3.1. What Are Heuristics and Biases?

There are two major schools of thought regarding heuristics: the heuristic-and-bias program, led by Daniel Kahneman and Amos Tversky, and the fast-and-frugal-heuristics program, led by Gerd Gigerenzer.[335] In simple terms, the former program

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[331] There are obviously many issues examined and studied in moral psychology. In his introduction to *Moral Psychology*, Sinnott-Armstrong, lists some of them such as intuitionism, "unconscious and inaccessible principles" (xv), moral process, the role of emotion, the semantics of moral language" (xvii), and moral responsibility. In his own contribution to the field, in "Framing Moral Intuitions" as well as in "How to Apply Generalities: Reply to Tolhurst and Shafer-Landau," he tries to show how the issue of framing—namely, how a problem or a situation is worded or framed—seems to undermine ethical intuitionism.

[332] I primarily rely on the work of Daniel Kahneman and his long-time colleague Amos Tversky as well as on that of their critic, Gerd Gigerenzer—the former two and the latter leading two schools of thought.

[333] The work is part of the research done in rational choice theory. The leaders of the heuristic-and-bias program, Kahneman and Tversky, in their seminal "Prospect Theory: An Analysis of Decision Under Risk" explain that their prospect theory is "a critique of expected utility theory as a descriptive model of decision making under risk" (263).

[334] E.g., in addition to his contribution to Sinnott-Armstrong's three-volume *Moral Psychology*—which he characterizes as a "look at moral actions through the lens of the theory of fast and frugal heuristics" (4) (cf. my examination of M→R though the lens of JVs)—Gigerenzer dedicates a chapter of his book *Gut Feelings: The Intelligence of the Unconscious* to "Moral Behavior."

[335] On the debate between the two schools, see, e.g., Kahneman and Tversky's "On the Reality of Cognitive Illusions" and Gigerenzer's "On Narrow Norms and Vague Heuristics: A reply to Kahneman and Tversky"; Gigerenzer's critique and Kahneman's reply (*Thinking Fast* 163ff); and Kahneman and Gary Klein's "Conditions for Intuitive Expertise: A failure to Disagree." Here is a brief summary by a psychologist leaning towards the first school: heuristics "are so useful that one group of influential psychologists has been led to extol their advantages even to the extent of minimizing the usefulness of the formal rules of

focuses on the potential failures of heuristics due to "predictable" biases,[336] while the latter focuses on the benefits of heuristics due to their inherent ability to work quickly, frugally, and correctly. Thus the leader of the heuristic-and-bias school, Kahneman, points to the potential errors of heuristic-based activity:

> There is a heuristic alternative to careful reasoning, which sometimes works fairly well and sometimes leads to serious errors. (Kahneman, *Thinking, Fast* 98)
>
> [H]euristics are quite useful, but sometimes they lead to severe and systematic errors. (Kahneman, "Judgment" 1124)
>
> [H]euristics are highly economical and usually effective, but they lead to systematic and predictable errors. (*Ibid* 1131)

The leader of the fast-and-frugal-heuristics school, Gigerenzer, in contrast, emphasizes the efficiency of heuristic-based activity:

> We think of intelligence as a deliberate, conscious activity guided by the laws of logic. Yet much of our mental life is unconscious, based on processes alien to logic: gut feelings, or intuitions. (Gigerenzer, *Gut Feelings* 3)
>
> In this optimistic view, people generally know what to do, albeit not why. . . . Therefore the real question is not if but when can we trusts our guts? (*Ibid* 17)
>
> A heuristic is called "fast" if it can make a decision within little time, and "frugal" if it searches for only little information. (Gigerenzer, "Moral Intuition" 4)

What are heuristics? Or more specifically, what do these thinkers consider them to be? Put most simply, heuristics are intuitive processes that permit one to act quickly in a given a situation without reflection or deliberation; they are kinds of rules of thumb.

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rationality. Most psychologists, though, while still acknowledging the usefulness of heuristics, think that this view carries things too far" (Keith E. Stanovich, *What Intelligence Tests Miss* 83).

[336] In *Thinking, Fast and Slow*, Kahneman puts it thus: "reliance on a heuristic produces a predictable bias in judgments" (7). Referring to the results of one the typical experiments regarding the availability heuristic (more on this heuristic below), he concludes as follows: "The reliance on the heuristic caused predictable biases (systematic errors) in [the subjects'] prediction" (7).

Kahneman and Gigerenzer, the leaders of the two schools, thus define and explain heuristics as follows:

> The technical definition of *heuristic* is a simple procedure that helps find adequate, though imperfect, answers to difficult questions. The word comes from *eureka*. (Kahneman, *Thinking, Fast* 98)
>
> [A] heuristic [is] . . . roughly a rule of thumb. (*Ibid* 7)
>
> The term *heuristic* is of Greek origin and means 'serving to find out or discover.' The Stanford mathematician G. Polya . . . distinguished between heuristic and analytic thinking. For instance, heuristic thinking is indispensable for finding a mathematical proof, whereas analytic thinking is necessary for checking the steps of a proof. Polya introduced Herbert Simon to heuristics, and it is on the latter's work that I draw. Independently, Kahneman, et al. . . . promoted the idea that people rely on heuristics when making judgments but focused on errors in reasoning. In this book, I use *heuristic* and *rule of thumb* as synonyms. A heuristic, or rule of thumb, is fast and frugal; that is, it needs only minimal information to solve a problem. (Gingerenzer, *Gut Feelings* 233-34)

3.2. Supporting Heuristics and Biases

How does the work in this area relate to mine?[337] One possible way is to consider M→R as a heuristic,[338] the equivocation fallacy as the corresponding bias that it leads to, and thereby equivocating as heuristic-based, biased acting. Thus what I call the M→R

[337] I am not the first to consider the potential use of the heuristic-and-bias model outside of its original domain. As Kahneman points out, "the ideas of heuristics and biases have been used productively in many fields, including medical diagnosis, legal judgment, intelligence analysis, philosophy, finance, statistics, and military strategy" (*Thinking, Fast* 8); "we now understand the marvels as well as the flaws of intuitive thought" (*Ibid* 10).

[338] Moral maxims can function as heuristics. See, e.g. Gigerenzer on "social heuristics" ("Moral Intuition" 2) and on a "moral rule, such as 'keep promises'" (*Ibid* 3); see also his biblical illustration: "The Ten Commandments exemplify the rules-of-thumb approach. The advantage of a small number of short statements such as 'Honor your father and mother' and 'Do not commit murder' is that they can easily be understood, memorized, and followed" (*Gut Feelings* 200). Given that I am examining the kind of situations in which a normally amoral action can become a moral one, Gigerenzer's "second principle" of moral intuitions is significant: "the same rules of thumb can underlie both moral actions and behavior that is not morally colored" (*Gut Feelings* 191).

fallacy, a psychologist might call the M→R heuristic or the M→R bias.[339] Before modeling in more detail my explanation on the basis of heuristics, I would like to show how views in this area as well as in psychology more generally support my assumptions.

ATA1 or even a stronger formulation of it such as "Thinking affects acting" seems to be a fundamental assumption of the whole science of psychology and not just of cognitive psychology, even schools of psychology that treat the mind as a black box such as behaviorism do not deny that thinking can affect acting: after all, what is the science of psychology if not the attempt to explain behavior from the perspective of psychic activities, including thinking, even if, in the case of behaviorism, only as the exposition of responses to stimuli. ATA2, too, in addition to being implied by ATA1, seems to be broadly supported by views in psychology.[340] I use the language of the tacit rather than that of the unconscious or the automatic,[341] but expressed in whatever terminology, the idea of psychological processes that are somehow not in the conscious realm of an agent has such a long history even within scientific psychology that it has become part of folk psychology. Thus ATA3, ATA4, and ATA5 all receive some support from views in psychology regardless of the school of thought. In the area of psychology that I am

[339] Kahneman and other psychologists also use the term fallacy—e.g., the "*conjunction fallacy*" (Kahneman, *Thinking, Fast* 158)—and although the view is that heuristics lead to biases, in naming a particular kind of phenomenon, psychologists use all three terms, e.g., in "Judgment under Uncertainty: Heuristics and Biases" Kahneman and Tversky examine the representative heuristic (1124-27), the availability heuristic (1127-28), the anchoring/adjusting heuristic (1128-30); and in "Paternalism and Cognitive Bias" J. D. Trout examines the availability bias (which he clearly explains in the following way: "The availability heuristic is an implicit cognitive rule that inclines us to infer the representativeness of an event from the ease with which it can be recalled or visualized" (399)), the overconfidence bias (400-01), the hindsight bias (401-03), the framing bias (404-05), the status quo bias (405-06), and the anchoring-adjustment bias (406-08).

[340] My focus on fallacious thinking is represented in psychological work in the studies of, say, cognitive biases that lead to systematic errors, hence my focus on heuristics and biases.

[341] Obviously not all automatic mental processes are unconscious, though the ones that I'm focusing on often are and always are partially unconscious. Cf. the "automatic and often unconscious processes that underlie intuitive thinking" (Kahneman, *Thinking, Fast* 13).

focusing on, the language of the unconscious and the automatic[342] gets extended to talk of System 1 or type 1 or of dual minds.[343] Kahneman's use of the language of "silence" maps well onto my qualifier "tacit"; furthermore, his use of the term "System 1" to refer to unconscious activities can map onto tacit justifying:

> The mental work that produces impressions, intuitions, and many decisions goes on in silence in our mind. (Kahneman, *Thinking, Fast* 4)
>
> [M]ost of the work of associative thinking is silent, hidden from our conscious selves. (*Ibid* 52)
>
> System 1 provides the impressions that often turn into your beliefs, and is the source of the impulses that often become your choices and your actions. It offers a tacit interpretation. . . . And it does most of this without your conscious awareness of its activities. (*Ibid* 58)[344]

Gigerenzer refers to unconscious activities, particularly to unconscious "intelligent inferences," which map well onto tacit reasoning:

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[342] See, e.g., Nichols ("Lecture 15: Psychology and Free Will"); Gigerenzer ("Moral Intuition" 10, 11, 14, 15, 21, 26) and ("Reply" 42, 43); and Cass R. Sunstein ("Fast, Frugal" 27).

[343] In *Thinking, Fast and Slow*, Kahneman apologetically explains his use of homunculus-like explanations: "The distinction between fast and slow thinking has been explained by many psychologists over the last twenty years. For reasons that I explain more fully in the next chapter, I describe mental life by the metaphor of two agents, called System 1 and System 2, which respectively produce fast and slow thinking" (13). He then goes on to explain in part I his use and his characterization of these two agents. "*System 1* operates automatically and quickly, with little or no effort and no sense of voluntary control" (20). "*System 2* allocates attention to effortful mental activities that demand it, including complex computations. The operations of System 2 are often associated with the subjective experience of agency, choice, and concentration" (21). "The labels System 1 and System 2 are widely used in psychology, but I go further than most in this book, which you can read as a psychodrama with two characters" (21). Kahneman then points to the characteristic of System 1 that is key for my purposes: "System 1 has biases . . . systematic errors that it is prone to make in specified circumstances" (25) (which in my examination are the misperceived, misinterpreted M→R1 situations as M→R2 situations). The more typical and non-homunculus labels used by psychologists are type 1 and type 2 activities (see, e.g., Jonathan St. B. T. Evans' "Intuition and Reasoning: A Dual-Process Perspective"), or even system 1 and system 2, but not as agents (see, e.g., Evans ("Dual-Processing" 256, 258, 267). For a detailed report regarding the two-minds approaches, see Stanovich's "Cumulative Progress in Understanding Our Multiple Minds," which is an extensive review of Evans' *Thinking Twice: Two Minds in One Brain*.

[344] For more from Kahneman on unconscious processes, see also the following: "I attempt to give a sense of the complexity and richness of the automatic and often unconscious processes that underlie intuitive thinking" (*Ibid* 13); [The studied case here is about a fan with a ticket driving in a blizzard to the game and a fan without it not doing so.] "These are tacit calculations of emotional balance, of the kind that System 1 performs without deliberation" (*Ibid* 343).

> [H]euristics underlying moral action are generally unconscious. (Gigerenzer, "Moral Intuition" 10)

> [I]ntelligent inferences are unconscious. (*Gut Feelings* 42)[345]

Finally, as representatives of both schools of heuristics, Kahneman and Gary Klein also use the qualifier "tacit":

> [There is] tacit knowledge. (Kahneman and Klein "Conditions for Intuitive Expertise" 516)[346]

Now, let's move on in the next subsection to examine how the phenomenon of the unwitting misapplication of M→R might be explained from the perspective of the unconscious, intuitive thinking of heuristics.

3.3. Modeling with Heuristics and Biases — A Sketch

Let's assume a model of M→R2 as a heuristic, the equivocation fallacy as the bias this heuristic can lead to, and the M→R equivocating as the unconscious, automatic process of System 1 or type 1 thinking. This model can explain from the perspective of the psychology of heuristics and biases the phenomenon that I try to explain from the

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[345] For more from Gigerenzer on unconscious intelligence, see also the following: "the reasons underlying moral intuitions are typically unconscious" (*Gut Feelings* 192); "The intelligence of the unconscious is in knowing, without thinking, which rule is likely to work in which situation" (*Ibid* 19); [Visual illusions'] "assumptions . . . are generally not conscious, which is why the great German physiologist Hermann von Helmholtz spoke of *unconscious inferences*. Unconscious inferences weave together data from the senses using prior knowledge about the world" (*Ibid* 44).

[346] Regarding unconscious, tacit thinking, see also these: "tacit knowledge is being able to do things without being able to explain how" (Klein, "Jumping to Conclusions" 32); "intuitive judgments and preferences . . . are automatic, arise effortlessly, and often come to mind without immediate justification" (Kahneman "Conditions for Intuitive Expertise" 519); "intuitions are not actually unconscious, as they often manifest as feelings. What is apparently not conscious about them, however, is any experience of where they come from and how they are justified" (Evans, "Intuition and Reasoning" 313); "old mind systems (e.g., habit learning, skill learning) are *autonomous*, meaning they can control behavior directly" (*Ibid* 316); "Many everyday decisions seem to involve rapid intuitive judgments in which courses of action spring to mind with little or no effort of conscious thinking" (Evans, "Dual-Processing" 267-68); "Social Psychologists have been particularly interested in links between unconscious processing and implicit forms of knowledge representation" (Ibid 269); "Some authors are now advocating a 'new unconscious' that also incorporates motivation and emotion" (Ibid 258); "We agree that much moral action is not guided by any process of conscious decision making or calculation" (Julia Driver and Don Loeb 31).

perspective of philosophy, informal logic, and, more specifically, fallacious thinking in the context of a tacit justificatory mental process. Psychologically speaking, then, an agent, in a given situation, unconsciously and automatically perceives the situation as a M→R2 situation. This kind of heuristic-based perception is intuitive: psychologists consider a heuristic either as a kind of intuition or as a producer of intuitions.[347] Next, having perceived the situation as a M→R2 situation, the agent is led to act on this perception, unaware that the situation is, in fact, a M→R1 situation. This latter situation pattern is not heuristically embodied;[348] indeed, had the agent possessed the M→R1 heuristic and thereby recognized the situation accordingly, the agent would likely have acted appropriately. Instead the agent, having misperceived the situation, ends up being motivated by the biased and thereby flawed thinking that can flow from this M→R2 heuristic. In an ambiguous kind of situation, one that is perceived as unambiguous by the agent, M→R's ambiguity makes possible the equivocation: that is, the equivocal slippage from M→R2 to M→R1. This slippage occurs both because M→R's ambiguity is not recognized by the agent and because the agent automatically sees the situation as a familiar, unambiguous M→R2 situation. That is, the agent does not see that the situation is an ambiguous kind, one that, depending on the particulars, potentially falls under the rule of M→R1. Kahneman explains more generally this heuristic-based mental activity in

[347] In additions to the citations above, see, e.g., Gigerenzer's essay title in Sinnott-Armstrong's Moral Psychology, namely, "Moral Intuition = Fast and Frugal Heuristics?" an essay in which Gigerenzer argues that "moral intuition . . . can be explicated in terms of . . . heuristics" (9) and that "Institutions Shape Intuitions" because "institutions shape heuristics" "that shape intuitions" (17). Even Kahneman's qualifications show that at least some intuitions are produced by heuristics: "We did not ask ourselves whether all intuitive judgments under uncertainty are produced by the heuristics we studied; it is now clear that they are not. In particular, the accurate intuitions of experts are better explained by the effects of prolonged practice than by heuristics. We can now draw a richer and more balanced picture, in which skill and heuristics are alternative sources of intuitive judgments and choices" (*Thinking, Fast* 11).

[348] As Kahneman explains, "intuitions . . . [are] governed by . . . resemblance" (*Thinking, Fast* 6).

any kind of ambiguous situation—that is, the agent's misperception and misinterpretation of the situation as unambiguous and thereby the agent's unconscious misapplication of a rule:

> The entire context helps determine the interpretation of each element.[349] The shape is ambiguous, but you jump to a conclusion about its identity and do not become aware of the ambiguity that was resolved. . . . Only one interpretation came to mind, and you were never aware of the ambiguity. System 1 does not keep track of alternatives that it rejects, or even of the fact that there were alternatives. Conscious doubt is not in the repertoire of System 1; it requires maintaining incompatible interpretations in mind at the same time, which demands mental effort. Uncertainty and doubt are the domain of System 2. (Kahneman, *Thinking, Fast* 80)
>
> The confidence that individuals have in their beliefs depends mostly on the quality of the story[350] they can tell about what they see. . . . [O]ur associative system tends to settle on a coherent pattern of activation and suppresses doubt and ambiguity. (*ibid* 87-88)

In "What is an 'Explanation' of Behavior?" Herbert Simon offers a definition of intuition as recognition, a definition that is accepted by many of the psychologists working in this area[351] and that helps further explain the kind of misperception applicable to familiar situations:

> Intuition is nothing more and nothing less than recognition.

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[349] In this example meant to illustrate a kind of misperception and misinterpretation, Kahneman is referring to subjects misperceiving and misinterpreting the number "13" as the letter "B" because the former is enclosed between the letters "A" and "C."

[350] Cf. Norman's "justificatory story" (9).

[351] In addition to Gigerenzer's words above regarding Simon, in their co-authored "Conditions for Intuitive Expertise: A failure to Disagree" Kahneman, leader and member of the heuristic-and-bias school, and Klein, member of the fast-and-frugal school of heuristics, both work from Simon's definition: "Simon defined intuition as the recognition of patterns stored in memory" (516). In *Thinking, Fast and Slow* Kahneman puts it thus: "The psychology of accurate intuition involves no magic. Perhaps the best short statement of it [stated above] is by the great Herbert Simon" (11). The difference in order of magnitude between, to put it concisely, prohibited and non-prohibited situations is so great that the more familiar pattern is the latter. It should not be a surprise then, that it is this pattern that all of us, most of the time, almost everywhere recognize.

> We do not have conscious access to the processes that allow us to recognize a familiar object or person. (155)

I need to stress again that this unwitting M→R phenomenon is one that agents suffer, one that happens to them, and the fallacious thinking is not malicious and intended to mislead others but rather occurs due to ignorance and leads to self-deception first and foremost.[352] This kind of failure is familiar to psychologists and other thinkers working in the area of heuristics, even to those who see heuristics in an optimistic light.[353] Gigerenzer, the leader of the fast-and-frugal school, makes this potential erring an essential part of his heuristics program,[354] and refers to a kind of partial knowledge—a kind of knowing without knowing.[355] Of course, among those thinkers who side with the heuristic-and-bias school, the issue of erring predominates.[356] For example, J.D. Trout[357] explains that

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[352] See, e.g., Gigerenzer's example of judicial decisions by English magistrates, which seem to be intentionally—even, I might add, maliciously—self-serving and self-protecting, but which he interprets as "systematic . . . self-deception" ("Moral Intuition" 18).

[353] Part, if not the whole, of this optimism is founded on evolutionary, adaptive explanations: see, e.g., Gigerenzer's point that "heuristics exploit evolved abilities" ("Moral Intuition" 19). (Cf. M→R2 as a law or principle of life.)

[354] In his "Reply to Comments" regarding critiques of his views on heuristics in general as well as on the relation between moral intuitions and heuristics in particular, including Sunstein's "Fast, Frugal, and (Sometimes) Wrong," stressing both the low likelihood of errors and the need for studies into the kind of environments that might lead to errors, Gigerenzer points out that "we can do better [than just say that heuristics can err] and work on defining exactly what 'sometimes' means. That is the goal of the program of ecological rationality" (41-42). He then adds, "there are already some quantitative [error-predicting] models" (42). Additionally, one of his witty titles acknowledges this erring: "I Think, Therefore I Err."

[355] In *Gut Feelings: The Intelligence of the Unconscious*, Gigerenzer identifies the three characteristics of intuition as, "I know the meaning, I act on it, but I do not know how I know it" (98). Then illustrating this kind of agency by referring to the typical voting agent, he explains the following: "The one-dimensional voter is able to 'know' where parties stand without actually knowing" (144).

[356] In *What Intelligence Tests Miss*, Stanovich points out the significant fact regarding misinterpretations of situations, namely, that "heuristics can be over-generalized to situations that require not a quick approximation but, rather, precise calculating" (78); Sunstein's critique of Gigerenzer's optimistic views includes the fact that "heuristics . . . often misfire" and lead to "moral error" (27-28).

[357]As a philosopher working from the perspective of experimental philosophy, in "Paternalism and Cognitive Bias," Trout offers an analysis of the findings of the heuristic-and-bias program in order to recommend social and political reforms given these systematic biases (395), "biases . . . that . . . are

agents "are unaware of the bias, and so unmindful of its harmful consequences" (416). Nancy Kanwisher's applies this commonly occurring bias-based erring to issues of war and national security in "Cognitive Heuristic and American Security Policy":

> Many of the tenets underlying American security policy are held with strong but unwarranted conviction. Further, these dubious beliefs often persist even after their flaws have been widely exposed. The problem is not simply that defense intellectuals, policy makers, and the public are simpleminded or disingenuous. Rather, I argue here that even intelligent and sincere people often reach erroneous conclusions by using any of several fallible reasoning strategies. (652)[358]

Kahneman, along with Jonathan Renshon, in "Why Hawks Win," argues for the persuasive advantage hawks have over doves precisely because of common biases:

> People have dozens of decision-making biases, and almost all favor conflict rather than concession. (34)
>
> Modern psychology suggests that policymakers come to the debate predisposed to believe their hawkish advisors more than the doves. (34)

Thus this kind of unwittingly fallacious thinking can play a role not only at the individual level in the personal realm but also at the collective level in the political realm. Psychologists might call the M→R fallacy the M→R bias[359] or the M→R heuristic, but whatever it is called, it is not as bad as it seems: it does not so much reflect either a bad—let alone, an evil—human aspect or an inevitable malicious thinking and acting, as expose potential acting from practically universal and ubiquitous, unconsciously fallacious thinking.

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virtually as stable, durable, and universal as reflexes" (396) and "for practical purposes, psychologically incorrigible" (408). (I examine the issue of corrigibility and control in my concluding chapter.)

[358] She further points out that "each heuristic leads to different biases" (669).

[359] Or even the M→R prejudice: might precedes right; having a power leads to thinking prejudicially, before considering the justice of it, letting the possessed might make right rather than reflecting on whether the might is itself righteous and thus justified, legitimate, etc. (I return to the issue of reflection in ch. V.)

3.4. Psychological Challenges?

What might be some of the challenges from moral psychology? Again, as in the case of the challenge from phenomenology, challenges might target my stress on thinking. What if intuitive acting is not essentially motivated or caused by anything that resembles thinking, even in the form of an "as if"[360] thinking?

In their critique of Gigerenzer's application of heuristics to moral intuitions and, especially, his identification of the two, as his title "Moral Intuition = Fast and Frugal Heuristics?" seems to indicate, or even his derivation of the latter from the former, Julia Driver and Don Loeb point out the problem with this identification or derivation:

> Gigerenzer hypothesizes that even intuitions are based on reasons (in the form of heuristics) and thus that we can substitute a *conscious* versus *unconscious* reasoning distinction for the more traditional *feeling* versus reasons distinction found in philosophical and psychological debates about how moral decisions are made. However, we must be careful here. That heuristics underlie some intuitive responses does not show that reasoning, in any ordinary sense of the term, underlies them. That there is a reason (in the sense of an explanation or cause) for our behaving a certain way—even an explanation having to do with the behavior's effectiveness at achieving some end—does not mean that we have unconsciously reasoned to the end. ("Moral Heuristics" 32)

What if they and not Gigerenzer et al. are correct? What if even those intuitively motivated acting that are based on heuristics are not a kind of thinking, would this refute my explanation? If all heuristic-based, intuitive acting were not kinds of thinking-based acting,[361] then the heuristic-based model of my explanation would turn out to be an incorrect model of reality. But the antecedent of the conditional is at issue. Furthermore, even if the antecedent were true, would my fallacy-based explanation also be proved

[360] On as-if thinking models, see. e.g. (Gigerenzer, "Moral Intuition" 16). Cf. the practical syllogism model.

[361] Gigerenzer points to the ongoing debate on the nature of intuitions: "The unresolved issue in this theory [social intuitionism] is that 'moral intuition' remains an unexplained primitive term" ("Moral Intuition" 9).

incorrect? This would only be the case were none of the tacit or unconscious kinds of acting kinds of thinking-based acting—an implausible claim. It seems much more plausible that some unconscious acting are unconsciously motivated by unconscious thinking. Indeed, Driver and Loeb don't seem to hold this absolute non-thinking view, not even in the case of intuition since they do not state explicitly that thinking never underlies intuitive acting.[362] Additionally, even if some psychologists do hold this absolute view, there is a sufficiently high number of psychologists who do not, thus making this an ongoing issue and thereby making the absolute non-thinking view only a potential challenge, but not an obvious refutation.

In conclusion, if M→R can be treated as a kind of moral intuition and if heuristics can explain the phenomenon of intuition,[363] then the heuristic model can explain the M→R phenomenon in a way that supports both my assumptions and my explanation.

4. Perelman — A Theory of Argumentation

As I tried to show in Chapter II, there are significant similarities between Perelman's work and mine. There is as well a key difference of focus—namely, my focus on fallacies—a difference that I examine in 4.2.1. After I try to show in 4.1 how his work seems to offer support for my assumptions and my explanation,[364] in 4.2, I examine his notion of the dissociation of ideas and how it relates to my method.

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[362] Additionally, they seem to offer support for my views as they also explain, first, that "virtuous agents can be unaware of their true reasons for action" and, second, that "Heuristics underlie good actions as well as bad ones" (34), thus allowing for unwitting living by M→R.

[363] For Gigerenzer's views on intuitions based on heuristics, themselves based on reasoning, see pp. 15-16.

[364] One interesting kind of formal support that I do not examine in 4.1 is the one regarding the use of examples and illustrations, and their different roles as supporting evidence or as illustrating data (*The New Rhetoric* 359-60). I order my examples and illustrations so that growing, actualizing potential, exercising natural powers, performing bodily movements are the examples to support the rule of M→R, and then war can become a more complex illustration of the rule that is already established by these examples: thus extending the rule from the natural to the artificial, from the normal to the abnormal or not-so normal, from

4.1. Tacitly Persuading Oneself

Given Perelman's stress on argumentation as a kind of solution to problems regarding justice,[365] his re-examining and re-prioritizing the practical side of reasoning—that is, the side of reasoning relevant to acting—seems to show that he must share ATA1.

> The goal of all argumentation . . . is to create or increase the adherence of minds to the theses presented for their assent. An efficacious argument is one which succeeds in increasing this intensity of adherence among those who hear it in such a way as to set in motion the intended action (a positive action or an abstention from action) or at least in creating in the hearers a willingness to act. (*The New Rhetoric* 45)
>
> Argumentation alone (of which deliberation constitutes a special case) allows us to understand our decisions. This is why we will consider argumentation above all in its practical effects: oriented toward the future, it sets out to bring about some action or to prepare for it by acting, by discursive methods, on the minds of the hearers. (*Ibid* 47)[366]

Yet given his rhetorical perspective and thus his focus on audience,[367] it is not as clear that Perelman and I share ATA3, ATA4, and ATA5:[368] after all, these assumptions are all about inner, tacit thinking and not thinking or arguing in public. Is there a reading of Perelman's work that might offer some support for these assumptions? I think there is. In

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the accepted to the unacceptable or to the should-be unacceptable, from the innocent consequences to the detrimental ones, the guilty ones, etc.

[365] From his early work on justice, Perelman seemed to have come to the realization that much would be gain in examining legal argumentation and reasoning: the title of one of his essays, re-published as the appendix to his culminating words on *Justice*, clearly shows this point: "What the Philosopher May Learn from the Study of Law." This kind of reasoning seems to offer some light on the relation between thinking and acting: "A thorough investigation of proof in law, of its variations and evolution, can, more than any other study, acquaint us with the relations existing between thought and action" (*The Idea of Justice* 108). Below, e.g., I examine and try to take advantage of the notion of *stare decisis*.

[366] It should be noted that even post-action JVs are also pre-action JVs, setting up shared foundations, preparing shared ground for future actions: past and present spoken JVs become future tacit JVs.

[367] "What we preserve of the traditional rhetoric is the idea of the audience, an idea immediately evoked by the mere thought of a speech" (*The New Rhetoric* 6). "Argumentation is intended to act upon an audience, to modify an audience's convictions or dispositions through discourse, and it tries to gain a meeting of minds instead of imposing its will through constraint or conditioning" (*The Realm* 11).

[368] I address ATA2 below when I address errors and fallacious thinking.

his examination of deliberation and beliefs, Perelman refers to self-deliberation as well as to the self as audience. With the self as audience dialogue becomes self-dialogue, deliberation, self-deliberation; thus Perlman's audience-focused rhetorical views can be applied not only to thinking and arguing in the public realm but also to thinking in the private realm of the self.

> The audience is. . . . the gathering of those whom the speaker wants to influence by his or her arguments. What is this gathering? . . . It can be the speaker himself, reflecting privately about how to respond to a delicate situation. (*Ibid* 14)
>
> [Regarding] "a normative role, . . . [t]hree kinds of audiences are apparently regarded as enjoying special prerogatives. . . . The first . . . [is] the *universal audience*.[369] The second consists of the single *interlocutor*. . . . The third is the *subject himself*[370] when he deliberates or gives himself reasons for actions. (*Ibid* 30)[371]

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[369] One of Perelman's most significant contribution, one that bridges rhetorical to philosophical thought is his notion of the "*universal audience*," intended to move the reasoning from merely "persuading" a particular audience, with its biases, etc., to "convincing" an audience that is meant to represent "the whole of mankind, or at least, of all normal, adult persons" (*The New Rhetoric* 26-30), "or at least all those who are competent and reasonable" (*The Realm* 14). Regarding Perlman's distinction between persuading and convincing, see also *The Realm of Rhetoric* pp. 2, 5, 15, and 17-18 as well as *The New Rhetoric* pp. 3, 16, 19, 25, 41, and 463. On his complex and elusive notion of the universal audience, see the following: *The New Rhetoric*, especially pp. 31-35; *The Realm of Rhetoric*, especially p.17 (universal audience as reason itself); *The Idea of Justice and the Problem of Argument* pp. 86-87, 155 (as "construction . . . based on experience"), 169 (as "an ideal audience, a mental construction"); and *Justice* p. 81 (as that which "incarnates what we traditionally call reason"); Crosswhite's "Universality in Rhetoric: Perelman's Universal Audience" (as the "undefined audience" (168-70)), his "Universalities" pp. 437-42, and *The Rhetoric of Reason*, especially pp. 144-64; and Olivier Reboul's "Can there Be Non-Rhetorical Argumentation?" pp. 223-24.

[370] This kind of inner deliberation or dialogue with the self as interlocutor is not new. Engaging Plato's Socrates' and Aristotle's views on thinking, in the first part of *The life of the Mind*, namely, "Thinking," in the section entitled "The Two-in-One," Hannah Arendt points out the following: "Nothing perhaps indicates more strongly that man exists *essentially* in the plural than that his solitude actualizes his merely being conscious of himself, which we probably share with the higher animals, into a duality during the thinking activity. It is this *duality* of myself with myself that makes thinking a true activity, in which I am both the one who asks and the one who answers. Thinking can become dialectical and critical because it goes through this questioning and answering process" (185). She then goes on to refer to this activity as "the discourse *within the soul*" (186). Some of these kinds of self-deliberations or self-dialogues might precede some public deliberations, which seem to presuppose them at least to some degree. Furthermore, if thinking is a form of deliberating, of inner deliberating, then to reason from one's unexamined presuppositions is to argue without knowing one's audience, one's self or selves as one's audience. Thus one's acting from tacit JVs can lead one to unwittingly beg the question against oneself, to not know

Even if this kind of self-dialogue refers to inner thinking, it does not clearly or obviously refer to tacit inner thinking. In order to apply Perelman's views to this further aspect of my assumptions, we need to examine other aspects of his views. Let's begin with his point regarding the importance and ubiquity of implicit beliefs and maxims in all societies:

> [T]he most solid beliefs are those which are not only admitted without proof, but very often not even made explicit. (*Ibid* 8)
>
> The most generally accepted beliefs remain implicit and unformulated for a long time. (*Ibid* 511)
>
> The importance of a recognized formulation is clearly seen when it is a question of expressing a norm more or less explicitly. *Maxims* not only condense the wisdom of the nations—they are also one of the most effective means of promoting this wisdom and causing it to develop: the use of maxims makes us put our finger on the role played by the accepted values and on the procedure for transferring these values. (*Ibid* 165-66)
>
> [A] given social arrangement [is]. . . accepted . . . explicitly or, as is more frequent, implicitly. (*Justice* 9)

Both the notion of implicit belief and of maxim can be mapped onto the notion of a tacit JV and M→R as a maxim. Next, let's examine Perelman's references to the traditional, rhetorical notion of *topoi* or *loci* that often function implicitly:[372]

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oneself: the unexamined presuppositions—the tacit JVs—being as unexamined parts of the self. I return to this issue in my concluding chapter.

[371] See also the section on self-deliberation (*The New Rhetoric* 40-45) as well as the following: "Even in the realm of inward deliberation, certain conditions are required for argumentation: in particular, a person must conceive of himself as divided into at least two interlocutors, two parties engaged in deliberation. . . . Hence, we must expect to find carried over to this inner deliberation most of the problems associated with the conditions necessary for discussion with others" (*Ibid* 14); "For some . . . self-deliberation offers the model of sincere and honest reasoning, where nothing is hidden, no one is deceived. . . . But . . . psychoanalysis . . . may have convinced us that we are capable of deceiving ourselves and that the reasons we give ourselves often amount to nothing more than rationalizations" (*Ibid* 14-15).

[372] The first term is Greek; the second, Latin. Both literally means place, while figuratively, they refer to the commonly shared starting positions for public argumentation. On *loci*, see *The New Rhetoric* pp. 83-99.

> [The] *loci* form the most general premises, actually often merely implied, that play a part in the justification of most of the choices we make. (*The New Rhetoric* 84)
>
> That which occurs most often, the usual, the normal, is the subject of the most commonly used *loci*, so much so that for many people the step from what is done to what should be done, from the normal to the norm, is taken from granted. (*Ibid* 88)[373]
>
> [T]he *loci* regarded as beyond discussion are used without being explicitly stated. (*Ibid* 96)

The implicitness inherent in the notion of *loci* can be mapped onto the tacitness of the notion of a tacit JV. Finally, let's examine Perelman's references to the legal notion of precedent as well as to the political notion of tacit consent:

> (*stare decisis*) . . . a precedent [is] . . . an implicit rule. (*Justice* 24)[374]
>
> Silence can be taken . . . as a sign that the matter is beyond question. (*The New Rhetoric* 108)

There is, Perelman adds, "the danger that silence will be taken for consent" (*Ibid* 108). Both of these last two notions—namely, legal precedent and tacit consent—relate to the notion of a tacit JV because a tacit JV can function as "an implicit rule" and can manifest the phenomenon of tacit consent.[375] There are yet other aspects of Perelman's views that seem to offer support to this examination's assumptions and explanation.[376] Let's now

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[373] Cf. M→R2 as the normal use of one's powers, with "taken for granted" being a kind of tacit thinking.

[374] Hume says that there can be no *ought* from *is*, but what about *ought* from *was* or *has been* or *has always been*—in other words, what about the power of customs, of tradition, of traditional norms, and so on? What about the power of precedents—the power of *stare decisis*? In short, what about the *might* of the *has-been-established* that makes the right of *now*? See Perelman's *Justice* pp. 9-12.

[375] Cf. the tacit consent section above in ch. II.

[376] With respect to the misapplication of M→R in particular situations given the shared tacit assumption of M→R2 and to the need for critical examination of the application, the following points, seen from the perspective of the self as audience, seem to offer some support: "Presumptions are based on the idea that that which happens is normal. But as the idea of normality is susceptible to various interpretations, people get into arguments over whether or not a presumption is applicable to a given set of circumstances, given

turn to one of these, namely, his notion of the dissociation of ideas and its relation to this examination's method.

4.2. The Method of Dissociation

Perelman would characterize the essence of this examination as a dissociation of ideas. What is Perelman referring to with this notion a dissociation of ideas? He is referring to the typical philosophical examination that analyses a common concept and shows that it is ambiguous. The analysis shows that the concept has two meanings that are valued differently, usually with one meaning being more fundamental. Perelman explains the method of dissociation as follows:

> Arguments are sometimes given . . . in the form of a *dissociation*, which aims at separating elements which language or a recognized tradition have previously tied together. (*The Realm* 49)
>
> The argumentative technique which has recourse to *dissociation*. . . is fundamental for every reflection which, seeking to resolve a difficulty raised by common thought, is required to dissociate the elements of reality from each other and bring about a new organization of data. By dissociating, among elements described in the same way, the real from the apparent, we move in the direction of elaborating a philosophical reality which is opposed to the reality of common sense. (*Ibid* 52)

From this dissociative perspective, this examination dissociates the idea M→R by revealing its ambiguity and thus separates M→R's two elements by specifying its two

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the fact of the case" (*The Realm* 25); "universal values. . . . are the object of an agreement of the universal audience. . . . the object of a universal agreement as long as they remain undetermined. When one tries to make them precise, applying them to a situation or to a concrete action, disagreements . . . are not long in coming" (*Ibid* 27); "If one of two rules which are mutually exclusive is always applicable, conflict is inevitable" (*Ibid* 57). The problem of potential misapplication calls for critical examination of critical situations in which one's usual use of one's powers can turn into an unwitting abuse: "Abuse" designates those activities or actions which should not be included in one's idea of the way something normally works" (*The Realm* 100); "A speaker has only to mention abuse . . . for the hearer to refer to an essence which is implicitly understood" (*The New Rhetoric* 328). In the case of M→R as an unwitting abuse of power, the "essence . . . implicitly understood" is the essence of power or potential as being rightfully actualized, an essence expressed by M→R2, a sense that makes it possible for M→R to function as a tacit JV. I return to the call for critical control in my concluding chapter.

meanings.[377] As mentioned above, Perelman considers the dissociation of ideas to be the typical kind of philosophical method.[378]

> [T]he dissociation of ideas . . . this argumentative technique is hardly mentioned in traditional rhetoric, since it is a method that is indispensable chiefly to those who analyze philosophical thought, that is, thought that tries to be systematic. (*The Realm* 126)
>
> Because dissociations are central in all original philosophical thought, pairs created by this technique will be called "philosophical pairs," as opposed to "antithetical pairs," such as good and evil, and to "classificatory pairs," such as animal/vegetable or north/south. (*Ibid* 52)

Although Perelman typically refers to the dissociation of concepts or ideas, while this dissociation is of a maxim and of its ambiguous expression of principles or propositions, he also refers to this latter kind of dissociation:[379]

> One of the techniques for presenting incompatibilities consists in affirming that of two mutually exclusive theses at least one is always applicable, which makes the conflict with the other inevitable on condition that they both refer to the same object. (*The New Rhetoric* 201)[380]
>
> The dissociation of concepts . . . involves a . . . profound change that is always prompted by the desire to remove an incompatibility arising out of the

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[377] Cf. "Privileged principles . . . will be most often ambiguous or equivocal and hence open to different interpretation. Then the philosopher's role will be to clarify and specify them" (*Justice* 76).

[378] Perelman refers to various philosophers and philosophical schools to illustrate this point of method. He refers, e.g., to Plato's and Plotinus' appearance/reality dissociation (129); Kant's phenomenal/noumenal dissociation (*The New Rhetoric* 413, 417) and (*The Realm* 126, 128); Bergson's essence/becoming dissociation (*The Realm* 130); as well as those of others such as Spinoza's, Berkeley's, Pascal's, Schopenhauer's, Marx's, Nietzsche's, and Sartre's (*The Realm* 130-37). He also points out that some schools oppose key dissociations: "Certain philosophies, however, reject this very dissociation between appearance and reality, affirming that conceptions of reality are in opposition to each other and denying any reason to choose between them. These philosophies—the antimetaphysical, positivistic, pragmatic, phenomenological, and existentialist philosophies—affirm that the sole reality is that of appearances" (*The New Rhetoric* 418). On his point that even those who reject this kind of dualism, end up dissociating nonetheless, see the note below on philosophical pairs.

[379] In the *Shape of Reason*, itself shaped in part by Perelman's views, John Gage uses the term idea to refer to propositions: "Ideas are sentences" (70); "A thesis is an idea, stated as an assertion" (70), "Assertions propose ideas" (70). He thus uses the term "idea" to refer to premises and conclusions (82-83).

[380] Cf. the misapplication of M→R, with the "object" referred to, in this case, being the particular situation.

> confrontation of one proposition with others, whether one is dealing with norms, fact, or truths. (*Ibid* 413)[381]

A dissociation thus consists of the splitting of an "original unity . . . comprised within a single conception and designated by a single notion" (*The New Rhetoric* 411-12) into a duality of two senses or meanings that are hierarchically ordered and labeled "term I" and "term II," with the latter being higher on the hierarchy—whatever value is hierarchized—than the former (*Ibid* 416). The most fundamental and original dissociation is the appearance/reality pair (*Ibid* 416ff), the prototype of "philosophical pairs" (*Ibid* 418):[382]

> With the model of the appearance/reality pair we can present the philosophical pairs in the form of the pair term I/term II. (*The Realm* 127)
>
> We consider this dissociation to be the prototype of all conceptual dissociation because of its widespread use and its basic importance to philosophy. (*The New Rhetoric* 415)
>
> Term I corresponds to the apparent, to what occurs in the first instance, to what is actual, immediate, and known directly. Term II, to the extent that it is distinguishable from it, can be understood only by comparison with term I: it results from a dissociation effected within term I with the purpose of getting rid of the incompatibilities that may appear between different aspects of term I. Term II provides a criterion, a norm which allows us to distinguish those aspects of term I which are of value from those which are not. (*Ibid* 416)
>
> Reasoning by dissociation is characterized from the start by the opposition of appearance and reality. (*The Realm* 134)

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[381] As one of Perelman's first interlocutor and supporting critic of his new rhetoric, puts it: "Dissociation always arises from incompatibility" (Henry W. Johnstone, Jr., "New Outlooks on Controversy" 65).

[382] On philosophical pairs and examples of philosophers and philosophies that use or reject them, see also *The Realm of Rhetoric* pp. 132-35 and *The New Rhetoric* pp. 415-36. "Contemporary thought strives, in many fields, to abolish pairs. . . . Often, in order to get a pair rejected, one will fall back on another pair" (*The New Rhetoric* 427). Perelman offers the following concrete example of a philosophical rejection of this kind of dualism that is contradicted by the philosophical view itself as it re-instates the dualism by dissociating: "It is curious to note that the existentialists who, as we have seen in the example of Sartre, are opposed to all types of dualism, do not hesitate to resort to etymology to extol an authentic meaning, which should be the primitive meaning, in preference to the customary one" (*The Realm* 137). For more on dissociation and philosophical pairs, see, e.g., Johnstone's "New Outlooks on Controversy" or Alan Gross' "Rhetoric as a Technique and a Mode of Truth: Reflections on Chaïm Perelman."

In this examination, Term1 and Term2 correspond to M→R1 and M→R2, with the first being derivative and the second originary, thereby properly placing them in a hierarchy of derivation.[383] This kind of valuing reflects another aspect of philosophical pairs, namely, their explanatory and justificatory relations: any pair can be related to any other pair in order to explain or justify it (420-26). "All philosophical thought can be presented in the form of a string of pairs which form a system" (*The Realm* 130). In my case, the pair expressing the two meanings of M→R is related to the pair derivative/originary, somewhat synonymously related to such pairs as apparent/real, secondary/primary, derivative/fundamental, artificial/natural, accidental/essential, with all these presented in the valuative context of such pairs as illegitimate/legitimate, unjust/just, unjustified/justified, unjustifiable/justifiable.[384]

4.2.1. Dissociating Errors and Self-Deceptions

Dissociations thus can reveal confusions and self-deceptions due to unwitting equivocations given the ambiguity of the apparent unity in need of being dissociated. Perelman explains this kind of self-deception thus:

> [T]he subject, by taking as term II what is only term I, manages to deceive himself. (*The New Rhetoric* 439)

[383] CF. "*Dissociative Definitions*"—"Definition. . . . is also an instrument of the dissociation of concepts, more especially whenever it claims to furnish the real, true meaning of the concept as opposed to its customary or apparent usage" (*The New Rhetoric* 444). "We should add that the dissociative definition of a concept may consist of an assertion that it is irremediably confused, that its univocal use is merely an illusion, a term I, a partial, momentary usage and that, for the resolution of the inconsistencies that inevitably arise from these aspects of term I, the only course open is to distinguish the latter carefully from a term II which will be the real, essential concept, not capable of being grasped directly " (*Ibid* 450).

[384] Perelman puts it this way: "Term I will often be disqualified as being factitious or artificial, as being opposed to that which is authentic and natural" (*The New Rhetoric* 440). Cf. M→R2 as deflating the force of M→R1.

In the case of M→R, "the subject" misperceives a situation as one falling under M→R2 (term II), when in fact it ought to be considered as one falling under M→R1 (term I); thus the subject misapplies M→R2 and "manages to deceive himself"—thereby unwittingly living by M→R1.

> It is . . . essential to distinguish between appearances which correspond to reality and those which do not and are deceptive. Hence appearance will have an equivocal status: sometimes it is an expression of reality, at other times only the source of error and illusion. (*The Realm* 127)

Although here Perelman is referring directly and explicitly to the appearance/reality philosophical pair in ontological examinations, such as Plato's or Kant's, given the "'horizontal' connections" (*The New Rhetoric* 424) or strings of pairs that characterize dissociative thinking, the issues of equivocation, deception (particularly, self-deception), error, and illusion map well onto my focus on unwitting, fallacious thinking. Furthermore, Perelman's more general claim regarding the fallacious thinking associated with dissociative reasoning seems to map even better onto my explanation *qua* solution to the problem of the ambiguity and equivocal and paradoxical nature of M→R:[385]

> The accepted solution sometimes seems so firmly based that failure to take it into consideration will be regarded as a logical error, as a fallacy. (*The New Rhetoric* 414)

This kind of "failure to take into consideration," of committing the "fallacy" of equivocation is precisely what I am trying to argue for. Nonetheless, these references to errors and fallacies notwithstanding, in order to check more comprehensively not only

[385] Cf. "Paradoxical expressions always call for an effort at dissociation" (*The New Rhetoric* 443). Although, as I try to show above in ch. I, it is not so much the paradoxical expression of M→R but rather the typical repulsive attraction most have to arguments advocating for it, the call for dissociative reasoning is nonetheless relevant. For more on dissociations and apparent contradictions, see also *The Realm of Rhetoric* pp. 136-37.

ATA2, but also my apparently non-standard use of the fallacy of equivocation, I need to examine theories of fallacy. And although he does refer to the issue of fallacious thinking[386] and examine some fallacies,[387] Perelman does not focus on fallacies.[388] So I turn to those who do.

5. Fallacy Theory

errare humanum est.[389]

5.1. A Long History

> That some reasoning are genuine, while others seem to be so but are not, is evident. This happens with arguments, as elsewhere, through a certain likeness between the genuine and the sham.
> Aristotle[390]

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[386] See, e.g., his point regarding one's charging another with having committed a fallacy as one's presenting an argument (*The New Rhetoric* 194).

[387] See his examinations of such fallacies as *ad hominem* versus *ad personam* and begging the question or *petitio principii* (*The New Rhetoric* 110-14) (*The Realm* 21-23, 97-98). See the note below for a critique.

[388] Given the size of *The New Rhetoric* (over 500 pages), the few pages I cite above, which capture much of what Perelman says about fallacious thinking and about particular fallacies, are sufficient evidence of the near absence of a treatment of fallacies. Nonetheless, for an examination of this lack of examination of fallacies, see Frans H. van Eemeren and Rob Grootendorst's "Perelman and the Fallacies" as well as Crosswhite's reply to them, "Is There an Audience for This Argument? Fallacies, Theories, and Relativisms." In the former, the authors ask and answer this relevant question: "What do Perelman and Olbrechts-Tyteca have to say about the fallacies? No general account or discussion of the fallacies can be found in *The New Rhetoric*, nor, for that matter, in any other publication by Perelman" (125). Even in Crosswhite's reply and defense, one sees a confirmation of this near absence: "The misunderstanding of *The New Rhetoric* here are deep and extensive. When van Eemeren and Grootendorst examine Perelman on fallacies, not much changes. They are certainly correct in noting that *The New Rhetoric* does not spend much time exploring anything like 'fallacies.' Perelman's aim is to establish the possibility of rhetorical reasoning, not to catalogue its failures. In addition the notion of fallacy suggests a breach of a rule, and the 'techniques' of argumentation offered in *The New Rhetoric* are not rules that can be breached. Instead, they can be opposed by counter-techniques, and Perelman and Olbrechts-Tyteca typically give examples of how each kind of argument can be countered by another. Van Eemeren and Grootendorst are also correct in saying that a rhetorical audience-oriented theory leaves little room for argument types that are somehow in themselves intrinsically 'fallacious.' Instead, 'errors in argumentation' arise in connections with misunderstanding what an audience does and does not assent to. For example, in the discussion of *petitio principii*, the closest thing to a fallacy van Eemeren and Grootendorst can find in *The New Rhetoric*, the error is to begin an argument with the premises that are rejected by the audience" (141). I quote at length, for I think this passage clearly summarizes Perelman's views on fallacies, identifies one of the key differences between his method and mine, and shows my need to turn elsewhere to prove my fallacy-based explanation.

[389] To err is human.

[390] Cited in Hans V. Hansen and Robert C. Pinto's *Fallacies: Classical and Contemporary Readings* from Aristotle's "*De Sophisticis Elenchi* [*Sophistical Refutations*] . . . 164a" (19).

As he has done in so many areas of study, Aristotle is the first, in the West, to systematically examine and theorize fallacies.[391] His work remains relevant. As Hans V. Hansen and Robert C. Pinto point out in their *Fallacies: Classical and Contemporary Readings*, Charles Hamblin, in his seminal work *Fallacies*, "advises us to return to Aristotle " (9) and begins from Aristotle's definition of fallacy:

> It is to Aristotle that we owe what might be called the standard definition of "fallacy" as an invalid argument, or invalid reasoning, that seems to be valid although it is really invalid. (4)

Here is Hamblin's formulation:

> A fallacious argument, as almost every account from Aristotle onwards tells you, is one that *seems to be valid* but *is not* so. (12)[392]

Hamblin re-started the examination of fallacies in the 20th Century; his influence is so significant that his name is an era marker ("post-Hamblin" (Hansen ix)):

> In 1970 Charles Hamblin published a book simply titled *Fallacies*, which since then has exercised an extraordinary influence on scholars in several fields. Perhaps the most significant theme in the book is its trenchant criticism of the state of fallacy theory in the twentieth century—a criticism that many have taken as a challenge to begin work anew on the nature of fallacies and associated problems in the theory of argumentation. (*Ibid*)

5.2. Conditional Support

These historical remarks are intended to stress that there is yet to be a consensus on the nature of fallacies, on a new definition of fallacy, or on a fallacy theory.[393] Hansen

[391] See, e.g., the introduction of Hansen and Pinto's *Fallacies* as well as chapters 1-3 of C. L. Hamblin's *Fallacies*. Both of these works also present a history of the philosophical examinations of fallacies. In addition to the former's introduction, see also its part I (ch. 1-6), which include excerpts from the original texts of the following philosophers: Aristotle, Antoine Arnaud and Pierre Nicole (of the Port-Royal Logic), John Locke, Isaac Watts, Richard Whately, and John Stuart Mill. Hamblin's first five chapters present a more comprehensive history, including, in ch. 5, a presentation of "The Indian Tradition."

[392] Cf. "Whately offers a wider conception of 'fallacy' as 'any argument, or apparent argument, which professes to be decisive of the matter at hand, while in reality it is not'" (Hansen 15).

and Pinto open their introduction to Part II of their *Fallacies*—"Contemporary Theory and Criticism"—with the following:

> The chapters that follow address the general question of what fallacies are, whether there is or can be an intellectually respectable theory of fallacies and, if there can be, what shape that theory should take. (97)

They then refer to "Hamblin's harsh assessment" (98):

> We have no theory of fallacy at all, in the sense in which we have theories of correct reasoning or inference. (12)

In the first chapter of Part II of their *Fallacies*, "The Blaze of her Splendors: Suggestions about Revitalizing Fallacy Theory," Ralph H. Johnson sums up the issue in the section "What Is a Fallacy?" as follows:

> Whether or not there are any fallacies is at least partly a conceptual issue: that is, the answer to this question will depend in part on how one conceives fallacy. This fact may explain the rather widespread disagreement about the existence and nature of fallacies, never mind the disparate conceptions of fallacy afoot. (108)[394]

That humans err is not at issue: what is at issue is whether this erring is systematic and thus can be theorized. In the chapter, "The Fallacy Behind Fallacies," Gerald J. Massey argues that it is not surprising that "there is no theory of fallacy whatsoever" (160) given that "a theory of fallacy presupposes a theory of invalidity" and "a theory of invalidity

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[393] Although new informal logic or critical thinking textbooks are published regularly, as if the subject matter were sufficiently settled to be in such form, articles inquiring into the fundamentals of the matter are also published regularly, in journals such as *Informal Logic* or *Argumentation* or *Philosophy and Rhetoric*. In book form, *Fallacies: Classical and Contemporary Readings* records what the state of flux of fallacy theory has been historically, including the very recent past. The flux continues . . .

[394] On further views regarding the issue of the nature of fallacy, in addition to the other chapters of Hansen and Pinto's *Fallacies*, especially those in part II, see, e.g., Ralph H. Johnson's "Massey on Fallacy and Informal Logic: A Reply," "Part II: The Nature of Fallacy" (412-23), "Acceptance Is Not Enough: A Critique of Hamblin," "The Coherence of Hamblin's *Fallacies*," and "In Response to Walton"; and Jim Mackenzie and Phil Staines' "Hamblin's Case for Commitment: A Reply to Johnson." The debate goes on.

has yet to be developed" (163-64).[395] He points out that "[r]ichness of classification and poverty of theory are directly related" (160) and then concludes thus:

> Fallacy is rather a matter of the generative limitation of accepted rules which are in turn a matter of theoretical explanation of inferential practice. Fallacies, therefore, are perhaps of more interest to psychologists and psychiatrists than to logicians and philosophers. (171)[396]

As is to be expected, the debate extends to the characterization of particular fallacies, with various classifications, labeling, and definitions offered in various essays and textbooks.[397] Where does this flux leave my examination? Not only ATA2 but also the whole on my explanation is thus only conditionally supported.[398] I must preface my

[395] Cf. Mill's "The subject is not beyond the compass of classification and comprehensive survey. The things, indeed, which are not evidence of any conclusion, are manifestly endless, and this negative property, having no dependence upon positive ones, cannot be made the groundwork of a real classification. But the things which, not being evidence, are susceptible of being mistaken for it, are capable of a classification having reference to the positive property which they possess, of appearing to be evidence" (Hansen 88-89).

[396] In "Is a Theory of Fallacies Possible at All?" Hansen and Pinto characterize Massey's views as "the stronger thesis that a theory of fallacy is an impossibility" since "there is no method for proving invalidity that has theoretical legitimacy" (102-03). Regarding replies to Massey's argument, see Trudy Govier's "Reply to Massey" in this same text as well as Ralph H. Johnson's "Massey on Fallacy and Informal Logic: A Reply," in which he echoes the characterization of Massey's views above "that there cannot be a theory of fallacy because there cannot be a theory of invalidity" and refers to others who criticize this view (407).

[397] I examine below this issue by focusing on the fallacy of equivocation.

[398] It should be clear why I focus on the support fallacy theory can offer ATA2. Regarding the support it can offer my other assumptions, the whole area of study seems to presuppose ATA1 and to acknowledge tacit reasoning and thereby offer support for ATA3, ATA4, and ATA5. Cf. Mill's "Erroneous conclusions, in short, no less than correct conclusions, have an inevitable relation to a general formula, either expressed or tacitly implied" (qtd. in Hansen 90), or his point that "it is in those steps of the reasoning which are made in this tacit and half-conscious, or even unconscious manner, that the error oftenest lurks" (Ibid 93); and Hamblin's presentation of Arnauld's views, in which he points out that he "is not interested in the (rare) cases in which these arguments might be explicit so much as in cases in which analysis of the reasoner's attitude indicates that self-interest (or self-love, or passion) is the predominant causal factor. In many of these cases the reasoner will not be conscious of his motivation and will certainly not make it explicit" (156).

argument with the following conditional: if there are such things as fallacies and if there is such a fallacy as equivocation, then . . .[399]

5.3. Propositional Equivocation — A Legitimate Extension?

Thus I simply assume the existence of fallacies given that there has been sufficient theoretical work done on them to support the reliance on the notion of fallacy in general and the fallacy of equivocation in particular.[400] Is my use of this particular fallacy, however, legitimate? After all, of the two basic kinds of fallacies of ambiguities—namely, the lexical and the syntactical—only the first one seems relevant, and it only refers to terms.[401] My explanation, however, relies upon the ambiguity of a complete saying: M→R, I claim, expresses two complete principles, two propositions, not two terms, and the equivocation occurs during the unwitting misapplication of one of M→R's two principles, in situations calling for the other.[402]

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[399] Cf. Gandhi's "If love or non-violence be not the law of our being, the whole of my argument falls to pieces" (Merton 25).

[400] Aristotle begins his examination with the fallacy of equivocation (qtd. in Hansen 21).

[401] On the fallacies of ambiguity and especially equivocation going back to Aristotle, see, e.g., Hamblin pp. 13-18, 81-84, 197, 218-23, and 283-303; Hansen pp. 5, 9, 15, 17-18, 21, 209-11, and 287-300; Christopher Kirwan's "Aristotle and the So-Called Fallacy of Equivocation," with a distinction between ambiguity and equivocation; R. Blair Edlow's "The Stoics on Ambiguity," with an extensive taxonomy of kinds of ambiguities; and Tom Stoneham's "On Equivocation," answering in the affirmative, *pace* Steven Pinker, the question, "Could there be equivocation in thought?" (518).

[402] On equivocations other than those based on terms, see, e.g., Aristotle's reference to the ambiguity of "names and expressions (qtd. in Hansen 21) (though of course a term may well be used synonymously to refer to an expression; Lawrence H. Powers' "Equivocation" (an essay in which he tries to argue for his "One Fallacy Theory," the one being equivocation), in the "Other Types of Ambiguity" section, in which he refers to the ambiguities of "figures of speech, such as metaphors simile, or irony" (Hansen 300), these ambiguities, nonetheless, not referring to propositions; Crosswhite's comprehensive view—which seems to include mine but which is itself not usually included in the debate on fallacy, working, as it were, from the rhetorical perspective, what he calls a "rhetorical theory of fallacies" in contrast to "logic-based theories of fallacies" (*The Rhetoric of Reason* 165), which he presents in the section, "Being Reasonable: A Rhetoric of Fallacies" (*Ibid* 165-87)—"Not only words and sentences can be ambiguous and require interpretation, but also actions, events, and things themselves. This is quite different from any fallacy theory whose prototype of ambiguity is a strict homonymy in which the fallacy is 'dependent on language'" (*Ibid* 178) (more on Crosswhite's views on ambiguity below).

Typically, the fallacy of equivocation reflects instances in which, due to the ambiguity of a term, different meanings of one and the same term, in a single argument, are referred to in such a way that although one might accept the premises of the argument, one should not accept that the conclusion follows from them since not all the references are to the same meaning of the one term. One's assuming or accepting that the conclusion follows from the premises is one's committing this fallacy. A similar fallacy is the amphiboly fallacy: here the ambiguity is based on syntax and not on semantics, or at least, not on the meaning of a term—that is, the syntax makes a phrase or a clause ambiguous.[403] But neither of these two forms seems to capture the fallacious thinking that I am exposing. In short, the equivocal thinking at work with M→R is based neither on the ambiguous meaning of a term[404] nor on syntactical ambiguity, but on the ambiguity of

[403] Most textbooks on critical thinking, see, e.g., Howard Kahane and Nacy Cavender's (69-70), S. Morris Engel's (92-102), or Gary Seay and Susana Nuccetelli's (271-75), provide similar definitions. But, as Hamblin points out, things are not as simple as they appear (13-22). There is no universal agreement, only broad, general consensus, with many variations on similar themes.

[404] Nonetheless, it is likely *not* a coincidence that the English term "might" is ambiguous, meaning either "can" or "may" and thus either ability or permission. An etymological analysis is likely to eliminate the apparent coincidence by showing that the root of this ambiguity is itself derived from the more fundamental ambiguity of M→R. Obviously, the ambiguity of the English term "might" does not make speakers of other languages immune from this fallacy given the ambiguity of M→R in whichever language it is rendered. The distinction between a sentence and the proposition the sentence expresses might help explain this: the same proposition can be expressed by many sentences in the same or a different language. I am not, however, trying to make a strong ontological claim here about propositions as independent of language: I am only pointing out that some form of the saying M→R has been expressed in more than one language. In the West, as I reference above, it has been expressed in the Greek of Hesiod, Aesop, Thucydides, and Plato; in the Latin of Cicero, the English of Hobbes, the Latin of Spinoza, the Latin and French of Leibniz, the French of La Fontaine and Rousseau, the German of Kant, the English of Mill, etc. Furthermore, its expression is not limited to the western languages: some form of M→R, e.g., also finds expression, as noted above, in the Chinese realists or positivists of the so-called Legalist School. Today's IR realists and neo-realists are not limited geographically or linguistically or obviously nationally: the whole world, for them, is a Hobbesian state of nature. In short, even if no propositions precede language—that is, even if all principles always already presuppose language and are the result of utterances or expressions—sayings or maxims are always later, revised, refined expressions and thereby escape the issue of the possibility of pre-linguistic or extra-linguistic thoughts and thus principles. Recognizing the significance of the linguistic turn in philosophy, I am carefully trying to avoid this issue. What does matter is that there is an ambiguity regardless of its source or the ontological status of the two senses. (Cf., e.g., Hamblin on propositions in the context of his examining equivocation "as due to the imperfections of our language" (218-23).)

a maxim, one that expresses two principles, two propositions. Thus my use of the fallacy of equivocation might be considered non-standard.[405]

Can the ambiguity of terms be extended to the ambiguity of propositions, within the context of the fallacy of equivocation? I think so.[406] An Aristotelian term-based, categorical proposition can be expressed in propositional logic as a conditional of propositions: e.g., "All bats are mammals" can be equivalently expressed as "If it's a bat, then it's a mammal"—a term like "bat"[407] can thus be an implicit clause and thus an implicit proposition.[408] Therefore, by replacing terms with their equivalent propositions, the ambiguity of a term in an equivocal, term-based argument or categorical syllogism can be extended to the ambiguity of the equivalent proposition in the corresponding propositional argument. Thus when one tacitly uses the maxim M→R in an argument,[409] its ambiguity can lead one to unwittingly[410] commit the fallacy of equivocation.

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[405] This is so notwithstanding Crosswhite's broad sense, given the typical sense of equivocation in informal logic or critical thinking circles.

[406] Note that, in addition to the demonstration that follows, a term can be expressed as an expression, an expression can be a phrase, and a phrase can be re-phrased as a clause and thus as a proposition.

[407] The lexical ambiguity of "bat" could be used for a textbook example of the fallacy of equivocation.

[408] Equivocation often referred to the use of more than three terms (Hamblin 197-99) (Hansen 15).

[409] Here is one way to do this: If M2, then A; M1; therefore, A. M1 stands for M→R1; M2, for M→R2; and A, for either the imperative "Act" or the normative "You ought to act" or the permission "You are permitted to act" or the justificatory declaration "You are justified to act"—depending on the interpretation of the proper form of the conclusion of a practical argument.

[410] Although the notion of fallacy is often associated with deception—cf. e.g., Johnson's "the term *fallacy*—deriving from the Latin *fallax*—has always carried with it the notion of possible deception" (Hansen 116)—as I point out in ch. III, I focus on self-deception. On the relation between fallacies or fallacious thinking and self-deception, see, e.g., (Hansen 26, 93, 173) as well as Hansen and Pinto's introduction to Mill's "fallacies of confusion . . . as resulting from an indistinct conception of the evidence" (17-18).

5.4. Equivocations' Qualifications

What about the valuable aspects of ambiguity and thus equivocation? Don't they simply reflect or reveal inevitable and ineffaceable complexities? Why try to resolve what is neither resolvable nor meant to be resolved?[411] This examination is not denying the value of all complexities or trying to resolve them all; rather, it focuses on ones that need if not resolution then, at least, examination. Those that qualify are those regarding complexities that are the consequences of institutional complex relations that can lead to unwittingly abusive power that one ought to become aware of and try to control.

[411] Cf. Crosswhite in the "Equivocation" section of his *Rhetoric of Reason*: "Ambiguity is taken to be the root problem, and techniques of disambiguation are taken to be the main cure" (177), though he does acknowledge, "instances of equivocation [that] could legitimately be called unreasonable" (182).

CHAPTER V

THE END

What is this examination for? Assuming that the answer to this question is still insufficiently clear, this chapter attempts to clarify it further. After summarizing in Section 1 the examination, I examine further, in Section 2, its significance and implications. I have already touched on implications throughout this examination; below I examine these further in light of the strongest possible objections, from the "So What!" objection to objections challenging both the main line of reasoning and the essay's thesis. I conclude with the examination's explanation's most significant implication, namely, a call for greater control and forgiveness.

1. Summarizing — Content and Form

In 1.1, I summarize the substance of the examination; in 1.2, I summarily outline its structure.

1.1. The Examination

From the perspective of the philosophy of nonviolence, this examination tries to show how all humans live by the maxim "Might makes right." Yet it does so by deflating this apparently cynical view. By viewing the phenomenon through the lenses of justifications for violence, it focuses on the meaning of the maxim, exposing the latter's ambiguity, a commonly unrecognized ambiguity, one leading, under the proper conditions, to unwitting equivocations. This unrecognized ambiguity, furthermore, resolves the apparently paradoxical nature of the maxim, namely, its repulsive attractiveness. Although many throughout history have attempted to refute the maxim, most people find themselves reluctantly and repulsively attracted to it. The non-cynical

explanation for this ambivalence as well as the resolution of this paradox is to be found in one of the two meanings of the maxim: its second meaning. M→R2 expresses a law of life. It declares something like the following: it is right or just or, at least, not unjust for a living being to actualize its potential. This actualizing of potential manifests itself in the most fundamental aspects of life: growing, developing, becoming, achieving, succeeding by exercising abilities, by using powers, and so on. No wonder M→R is irrefutable.

Thus given the philosopher's task to clarify and to re-interpret common views—the *endoxa*—on any subject, this examination re-interprets the maxim "might makes right" and the phenomena of uses of power, thereby re-thinking abuses of power as well as offering an explanatory argument for a justificatory phenomenon that can affect all and lead to much unnecessary, unwitting, avoidable violence.

1.2. The Structure

Chapter I introduces the issue by outlining the main explanation and situating the examination historically. Chapter II continues the contextualization by presenting the examination's broad background. Chapter III develops the outlined explanation and illustrates it with an extended example from war as well as a brief example from teaching, one that serves as an exemplar for the issue of institutional power. Chapter IV checks the examination by the light of related theories in philosophy, psychology, and informal logic. Finally, this chapter summarily exposes its significance and implications.

2. Concluding — Final Objections and Implications

The first objection—namely, "So what? Who cares?"—I entertain in 2.1; the objections challenging the reasoning of the main argument and its conclusion in the context of potential control I entertain in 2.2; finally, in 2.3, I offer a few thoughts on a

further significance and implication of this examination's non-cynical explanation, an explanation that recognizes and relies upon the universality and ubiquity of fallacious thinking, but that thus also shows the potential for sound ways as well as hope.

2.1. So What?

Some might say, "So What? Who cares?" Sometime this "So What?" question[412] is less difficult to address in concluding an examination than in introducing it. This seems to be the case with this examination because the very being of the phenomenon under examination—namely, the practically universal and ubiquitous living by M→R—might be at issue, and thus only after having examined its nature and explained its presence[413] can the issue of significance[414] be addressed comprehensively.[415] In 2.1.1, I make a case

[412] Regarding this question, see, e.g., Gage's *The Shape of Reason*, pp. 28 and 56-60.

[413] See the note on the phenomenon at issue, in sect. 1 of ch. I.

[414] Regarding significance, another flavor of the "So What?" challenge is the "Isn't this a trivial point?" challenge. This does not seem to be a strong challenge if the trivial point indeed deflates the deflationary definitions of justice thereby re-inflating the concept of justice to its proper place—i.e., if it trivializes cynical points made about M→R as human nature or the human condition, etc. Furthermore, if this examination is correct, then part of the point might be obvious or even trivial because even if M→R is a tacit JV, when this is pointed out, the tacit reasoning should sound familiar even if never explicitly heard. The part of the point that is not obvious or trivial or even likely to be accepted is that humans equivocate and thereby misinterpret and then misapply an obvious principle, but to show that this is the case is what this examination is for. Yet another potential challenge at the level of the "So what?" challenge is the following. In some sense, as noted above, M→R is absurd or ridiculous (as Perelman would put it (*New Rhetoric* 205)): it reduces the permitted to the possible (Cf. Arendt on everything that is possible is permitted.) To reduce the permitted to the possible is to reduce the moral to naught. Non-cynically, this is so only because, as shown above, the permitted together with the non-prohibited make up the largest subset of the possible: the default mode, the *modus operandi*. The moral checks are the exceptions. Our checking before our acting is exceptional. We act all the time. We check some of the time. This is how it should be; this is not a problem; this is living. In one sense, M→R is intrinsic: it is *the* way to live, the only practical way—any other way might lead to inactivity and thus death. M→R2 is a law of life. (Cf. Hobbes' and Spinoza's conatus.) Only M→R1 is an immoral way. Against an enormous background of continuous and constant activity, we deliberate in order to act morally. We inevitably do so exceptionally. The very salience of this kind of deliberate activity can reveal the background to which it owes its very existence. Always we act; sometimes we do so deliberately. Sometimes we check our actions; at all other times, we live by M→R2. There is no need for a cynical view of M→R: M→R2 is the way for all of us, the way by which we live during all those times that we do not check our actions and deliberate before acting.

[415] This whole examination is hypothetical, not only the explanation, the *explanans*, but also the very phenomenon to be explained, the *explanandum*—i.e., both that we live by M→R and why as well as how we do so are hypotheses for us to consider and examine: what if we live by M→R and why and how do we

for the significance of this examination; in 2.1.2, I address this significance under the assumption that the examination's explanation is correct.

2.1.1. What Is So Significant about This Examination?

The principal significance of this examination, along with its argumentative explanation, is its call for continual vigilance regarding probable ignorance and fallacious reasoning leading to unwitting living by M→R. This examination tries to show the need for the awareness of our individual and collective uses of our powers. The good news is the abundance of data from self and others due to the universal possession of powers and the consequent innumerable uses of them. This examination thus points to the potential, universal benefits that might result from our getting into the habit of examining and thereby controlling as much as possible and as critically as possible the uses of our most significant powers, especially the ones that affect or might affect others in abusive ways. Furthermore, it gives us crucial reasons to be more forgiving of others as well as of ourselves. Let's see how it does these things.

The first thing that this examination does is that it raises questions that ought to be critically addressed, questions such as the following ones. What if we all live by the proposition that might makes right? What if even those of us who conscientiously and consciously reject this proposition also do so live by it? What if we all live by it unwittingly? Would not a close examination of our actions in this regard be worth our while? What if we as members of communities participate in our community's actively living by this proposition? What if we as citizens of nation states contribute to our nation

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end up doing so? By examining the explanation—i.e., the second hypothesis, viz., why and how we live by M→R—we may learn about the first hypothesis, viz., that indeed we do live by M→R. Although I obviously think that the hypothesis is true, I invite others to test it. Cf. Montesquieu's end of writing—not simply to assert what is and persuade others to believe the assertion, but to invite or even incite others to think about our ways—a thought experiment: what if these are our ways?

state's actively abiding by it? Would not a critical examination of our community's activities and of our nation's actions in this regard be worth our while? Would not our thinking about our thinking in this regard be worth our while? Would not, therefore, a critical examination into how the logic of "Might makes right" can affect our thinking and thereby our deliberating or even just our acting, justified and thus motivated by this thinking, be worth our while? If we humans non-consciously normally live by "Might makes right," if we abide by it daily, if we tacitly and fallaciously rely on it as a justification for many of our actions, if this tacit, fallacious thinking leads us to act in ways we would not act were we aware of our justificatory thinking, then is it not worth our while to critically examine our thinking and consider whether it agrees with our most fundamental practical principles?

"They abuse their powers," we, almost all of us at times, think or say, but what if we are sometimes these "they"?[416] If the phenomenon of abuse of power is common, then isn't it worth examining its source, especially in cases in which the abuses are done by those "thinking" that they are legitimately using their powers and not abusing them? Aren't these cases of unconscious abuses the most fascinating ones and the ones most in need of critical examination? Given that we all possess powers and use them all the time,

[416] I wonder why it is *others* who tend to abuse their power. I wonder why it is not I who tend to do so, why it is not you, reader, why is it not we—our group, our people, our compatriots? Why is it the others—almost always the others—who unjustifiably use their power illegitimately, unjustly, immorally, wrongly—while *we* can and do justify our use and almost always use our power legitimately, justly, morally, rightly? And, the few times that we use it not so rightly or even wrongly, we tend to show that we use it in the least wrong way possible since after all sometimes we have to deal with dilemmas, sometimes all the choices are wrong ones and all we can do is choose the least wrong one. But *others*, well, *they* seem to choose wrongly when right choices are possible.

isn't it worth our while to critically examine some of our uses in order to insure that they are not abuses?[417]

We all think. At times, we all think fallaciously. Human thinking is inherently potentially fallacious. Our acting is related to our thinking; of course the relation is complex. We speak of acting without thinking. What might this mean? Does it mean acting without thinking at all or without thinking well? Is it about our acting without our thinking soundly? In any case, if our actions are, at least some of the times, motivated by our tacit, fallacious thinking, then we might end up acting in ways we would not wittingly choose, end up living unwittingly by M→R. If this is the case, then isn't it worth our while to learn how to use our critical thinking power in order to control and thereby to try to avoid unwittingly abusing our acting power?[418]

As shown above, historically, many great thinkers have found it worth their while to advocate for or to refute the maxim "Might makes right." With, nonetheless, neither side ending the debate, isn't it worthwhile examining further this maxim and trying to determine why the debate was not closed and the maxim silenced once and for all[419] as

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[417] See the note above on the law of large numbers, in sect. 11 of ch. II.

[418] Cf. Montesquieu's "To prevent the abuse of power, things must so ordered that power checks power" (Richter 181).

[419] In his *Republic*, Plato has Socrates apparently thrash Thrasymachus at the beginning of the discussion, in the first book, the first of ten books. Surely after the initial thrashing and the subsequent elaborating of it in the next nine books, no other refutation, no further denial would be needed. Plato's Socrates, nonetheless, clashes with Callicles, as if the effects of the thrashing of Thrasymachus was only a momentary reprieve, a brief restful period in which Socrates—and with him, most of us—could breath peacefully until the next time the saying was uttered and needed silencing—again. And again, taking the baton from Socrates or perhaps from others just as unsuccessful in their silencing, Leibniz takes his turn, and then after him Rousseau, and even Kant. And again and again one great mind after another tries silencing, only to leave the saying available for others, who—unconvinced though not necessarily untouched by the great silencings—utter it when it seems to them to best capture the phenomenon that they are trying to interpret and to comprehend.

well as why so many paradoxically find the maxim both attractive and repulsive?[420] Given the long history of refuting and discrediting, isn't it worthwhile examining why it still functions, even in its inverted form,[421] why the silencing ultimately seems to have merely led to a mostly tacit functioning?

What if "Might makes right'" has not been silenced because it cannot be silenced? What if it cannot be silenced because it ambiguously expresses an interpretation of a kind of phenomenon—namely, actualizing potential—that is so basic to life, so natural, so normal, so common that other kinds of phenomena get interpreted as if they were this former kind?[422] What if because not all phenomena fall clearly within only one of the two kinds, ambiguous phenomena can lead one to misinterpret them in a way that can lead one to misapply "Might makes right" in a situation in which a nonessential living activity

[420] I wonder why I, agreeing with Socrates and Leibniz and Rousseau et al, feel myself attracted even as I feel partially repulsed by the claims and arguments of Thrasymachus and Callicles and Hobbes and Spinoza et al: I wonder why I feel partially persuaded by their arguments in defense of the proposition that might makes right. I doubt that I am the only one who feels this repulsive attraction. The arguments for the proposition that might makes right, even the weakest ones, have a persuasive force. Why although deeply wishing to be, aren't Glaucon and Adeimantus persuaded by Socrates' apparent refutation of Thrasymachus' argument? Why isn't the whole *Republic* simply its book I? Why another nine books? And why so many other attempts at refuting the saying? Why weren't the voices of the advocates of this saying silenced at the start? Why so many other utterances?

[421] If a leader is not concerned over whether one's own people is acting according to M→R, if M→R is not or no longer an issue, then why speak of right makes might? See the analysis of this inversion in "The Effectiveness of Tacit Consent" in ch. II and throughout ch. IV.

[422] What if the reason there is such a long history of so many agreeing with both arguments pro and con M→R is that M→R is ambiguous: the arguments equivocate and the interpreters do not notice the equivocation? (For example, what if both Hobbes and Spinoza, with their notion of *conatus*, while really focusing on M→R2 seem to end up equivocating and slipping to M→R1?) How can M→R seem so absurd and yet at the same time so plausible? Again why was Thrasymachus heeded? Why was Socrates' refutation of his position not accepted by Glaucon and Adeimantus, even though both wanted to accept? Why nine other books of Plato's *Republic*? Why recurring refutations since Plato's Socrates? Why Leibniz' refutation? Why Kant's? Why Rousseau's? Why those of IR theorists still trying to refute Thrasymachus' and Callicles' disciples? Might the ambiguity of M→R explain this ever recurring and continuing misunderstanding, misinterpretation? Might it explain why so many, for so long, in so many places, under so many varying circumstances have been both pulled to reject the saying and yet felt incapable of letting it go? Might it explain the ambivalence, the apparently inevitable ambivalence?

is interpreted as an essential one and thereby assumed to be if not right then at least not wrong? Isn't this tacit and fallacious kind of reasoning worth examining further?

2.1.2. The Explanation Is Correct: So?

Assuming that this examination is even partially correct and that it reveals some real phenomena of unconscious abuses of power and a non-cynical explanation based on the fallacious thinking of equivocation, what might this mean? What is the significance of its reasoning? What are its implications regarding actions? These are not difficult questions to answer partially and preliminarily. If, often enough, we all unwittingly live by M→R, then some kind of control over these unwitting ways is called for. Successful control could mean fewer abuses of powers: the more successful, the fewer the abuses.

If this examination's explanation—namely, the unwitting committing of the fallacy of equivocation—is correct, then it calls for the examination of unwitting abuses. Although this examination and consequent control probably cannot lead to the elimination of unwitting abuses, they can, hopefully, lead to a reduction of such abuses. If we humans unwittingly abuse our powers as fish blissfully swim in water, then is not our recognition, "This is water; this is water; we're swimming." significant and potentially life changing?[423]

What if, however, this examination is off the mark in the worst possible ways?

[423] In his "Kenyon Commencement Speech" David foster Wallace uses insightfully this fish-in-water analogy to make the graduating students' more aware of their own education: "I have come to understand that the liberal arts cliché about teaching you how to think is actually shorthand for a much deeper, more serious idea: learning how to think really means learning how to exercise some control over how and what you think. It means being conscious and aware enough to choose what you pay attention to and to choose how you construct meaning from experience. . . . Think of the old cliché about 'the mind being an excellent servant but a terrible master'" (202). He goes on to warn about our "natural default setting" (203, 205, 207), pointing out that "the so-called real world will not discourage you from operating on your default settings" 208). He concludes that "the real value of a real education . . . has everything to do with awareness; the awareness of what is so real and essential, so hidden in plain sight all around us, all the time, that we have to keep reminding ourselves over and over: 'This is water, this is water'" (209).

2.2. Critical Thinking — Potential Control?

Can critical thinking as a means of control over the M→R tacit reasoning lead to the reduction of equivocations regarding M→R—that is, of the misapplying of M→R2 in M→R1 situations—and thereby to the reduction of abuses, the reduction of violence? The following subsections attempt to address this question as they entertain what seem to be the strongest objections to this examination's method and reasoning.

2.2.1. Is the JV Perspective Cynical?

This examination stresses the insufficiency of cynical explanations and the non-cynical quality of the explanation it offers. What if, however, the whole perspective of this examination is itself inherently cynical? Isn't it cynical to re-interpret stories, theories, myths, tales, proverbs, sayings, maxims, and so on *as* JVs? Isn't seeing so many things as JVs a form of cynicism? Isn't it cynical to look at everything through JV lenses, through lenses focusing on violence?

Regarding control over tacit motivational thinking, a cynical perspective and attitude can mean failure because such a perspective and attitude can lead to apathy, to inactivity of thought, to brooding, to despair, and thereby to unexamined acting. The JV perspective and its corresponding attitude can lead to the opposite: to a desire to act rightly and to avoid or minimize violent actions. The JV perspective calls for critical examination before acting. JV lenses are not meant to be reductive or cynical but perspectival and critical; they are meant to help us to see and thus discover where and when we are tacitly justifying our actions and thus acting violently. Looking at, say, a theory through JV lenses does not mean reducing the theory to a JV, but rather

considering the theory additionally *as* a JV in order to notice, whenever this perspective works well, the violence that might otherwise go unnoticed.

2.2.2. Is This a Fallacious Composition?

Even if the explanation is correct at the individual level, what about its relevance at the collective level? Is this examination's reasoning sound at the level of individual thinking and acting yet fallaciously extended to the level of collective thinking and acting? Is it committing the fallacy of composition? Is it reasoning from the fact that individuals equivocate to that of the whole collective, composing these individuals, equivocates?

This is a challenging objection. It touches on issues of psychology, sociology, political theory, social psychology, political psychology, and other such areas of studies, none of which I am qualified to engage. From a philosophical perspective, as shown throughout this essay, this examination does assume some kind of causal or motivational relation between individual and collective thinking, though not unidirectional, that is, from individuals to the collective, but rather a complex set of bidirectional interactions. This perspective has a long history in philosophy. For example, Plato's *Republic* relies on an equivalence or similarity between the structure of the individual soul and that of the collective soul. Another example is Aristotle's linking of ethics with politics in his practical examination, treating his *Nicomachean Ethics* as the preliminary work for his *Politics*. Later examples, following in this tradition, are the views of Greco-Roman moralists such as Dio Chrysostom.[424] In the modern period, Hobbes' *Leviathan*,[425] shows

[424] See Johnson's *Practical Philosophy: The Greco-Roman Moralists*, "Lecture 13: Dio Chysostom—Preaching Peace and Piety."

the close connection between the state or condition of the individual to that of the collective. A recent example, is Habermas' "discursive formation of will" ("Why More Philosophy" 651-52), consensus-based will formation, a "we-perspective" ("Reconciliation Through the Public Use of Reason" 117), which depends on the reasoning of the participants, their non-fallacious thinking, so it is grounded on the kind of thinking that critical thinking theory, including fallacy theory, can bring light on.[426]

At the risk of committing the fallacy of composition, this examination does assume that the same logic of M→R somehow obtains for the collective as it does for the individual, whether the collective is the demos of a democratic society or the oligarchs of an oligarchy or the bureaucrats of a bureaucracy or the deserving of a meritocracy or the nations of international unions. It assumes that the fallacious reasoning that can lead one to abuse one's power, can also lead a collective to abuse its power, however this process of composition from thinking and acting individuals to a thinking and acting collective actually occurs.

2.2.3. What If the Main Argument Is Unsound?

Even if it were the case that this examination is committing the composition fallacy, this might still not be the weakest aspect of its overall argument. What if it turns out that people do not equivocate regarding M→R? What if the primary point—namely,

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[425] The frontispiece in the original publication of *Leviathan* shows a giant monarch composed of small individual humans.

[426] E.g., Habermas explains collective characteristics and activities in this way, stressing his intersubjective, discursive view: "Thus to the objective structures within which socialized individuals encounter each other and act communicatively, large-scale subjects are assigned. The projective generation of higher-order subjects has a long tradition. Marx too did not always make clear that the attributes ascribed to social classes (such as class consciousness, class interest, class action) did not represent a simple transference from the level of individual consciousness to that of a collective. These are rather designations for something that can only be arrived at intersubjectively, in consultation or the cooperation of individuals living together" (*Theory and Practice* 13). See also Steven Seidman's introduction to *Jürgen Habermas on Society and Politics: A Reader*.

that M→R functions as a JV because people equivocate—turns out to be unsubstantiated and even shown to be not only *not* the case, but more significantly impossible?

Before examining and entertaining each part of this objection, let's take note of the following. By examining M→R from the perspective of unwitting abuses of power, this examination can reply to this objection if not successfully, then at least critically. As shown above, any agent is capable of abusing his or her power just because being an agent by definition means having some acting power to use and thus potentially to abuse. The principal purpose for arguing that M→R functions as a JV due to an equivocation is not *only* to convince others of our equivocal thinking, but also to encourage and invite others—as either individuals or members of collectives—to think about the use of their own powers. If we humans are capable of abusing our powers, shouldn't we reflect closely, critically, constantly about how we use our powers? It might be incorrect to state that because we equivocate, M→R obtains, but it is doubtful that it is incorrect to recognize that we all are able to abuse our powers and thus that we are all in need of self-reflection on our uses of our powers. If this examination is correct about our equivocating, then some of our abuses of power would be explainable non-cynically; if it is *not* correct, then we would have to rely on other more general, non-cynical explanations[427] such as our abuses being due to our acting unintentionally, ignorantly, unawares that we are abusing our powers, which is likely the case in most such instances. But of course ignorance can pardon actions in general, not just abuses of power, and so the equivocation explanation by referring more particularly to abuses of power in which

[427] Again, I'm working from the assumption that a cynical explanation, as it is commonly understood, by its very nature cannot explain the normal; it can, at best, only explain the aberrational; otherwise, we would need yet another qualifier in order to characterize the explanations of atypical negative phenomena. If the reader still feels that I am begging the question here, there is not much else that I can do but refer the reader back to my examination of cynical explanations above.

M→R tacitly plays a justificatory role can thus be useful as a way of thinking about our potential abuses.

If this examination's explanation helps one to think about one's uses of one's powers in order to try to avoid abusing them, then isn't it successful even if proven incorrect? It is as if in the very process of refuting this examination's position, one is led to think more critically about one's powers and their legitimate uses, thereby producing what this examination precisely intends to produce, namely, one's critical thinking of one's uses of one's powers, one's critical examination of one's actions.[428]

Let's return to the explicit examination and direct entertainment of the many parts of the objection. This essay's main argument is something like the following: (P1) if M→R's ambiguity is unrecognized, then it can lead to equivocations; (P2) people don't recognize the ambiguity; therefore, people equivocate between M→R2 and M→R1, mistaking M→R1 situations for M→R2 situations, and thereby feeling justified to act, to use their powers, and thus sometime to abuse them. Let's treat separately each part of the objection.

2.2.3.1. What If the Ambiguity Is Not Unrecognized?

Some might deny, in a qualified way, P2: they might object by claiming that M→R's ambiguity is not always unrecognized. I doubt that this qualified denial is the case. Before this examination, I did not recognize M→R's ambiguity; indeed, I was puzzled by my ambivalence towards views on M→R, finding myself attracted both to Socrates' refutation and to Thrasymachus' reasoning, in the same way that I found Hobbes' and Spinoza's advocacies persuasive. I consider the discovery of M→R's

[428] Although this re-instituting nature of my explanation does not achieve the level of undeniable and thus foundational truths that Josiah Royce relied upon to ground his work, it does achieve what it can best achieve, namely, providing one with an opportunity to think critically about one's actions.

ambiguity to be one of the most significant as well as, as far as I can tell, the most original part of this examination. Had this ambiguity been recognized even by only a few, it would likely have been recognized by Socrates, Hobbes, or Spinoza, especially by the latter two given their notion of the *conatus*. I have not come across any evidence of this recognition by anyone: of anyone pointing out M→R's ambiguity, let alone using it to examine the functioning of the maxim. I have to conclude that P2 is true or, at least, plausible.

2.2.3.2. What If It Does Not Lead to Equivocations?

Some, who might accept my reply, might still deny, in qualified way, P1. They might point out that not all ambiguities lead to equivocations and, furthermore, that M→R's ambiguity does not necessarily lead to equivocations. Both of these points are correct. The comprehensive explanation[429] shows that the ambiguity is insufficient and examines the kinds of complementary conditions that almost always lead to equivocations. The issue at the heart of this objection, then, must be the difference in magnitude and frequency of equivocations: the objection admits only a few; the explanation exposes a great many. Whether the former or the latter is correct depends on whether the so-called complementary conditions are indeed complementary—that is, conditions that complement the ambiguity and thereby almost always lead to equivocations—as well as on whether they are as prevalent as the explanation tries to show.

2.2.4. What If the Thesis Is False?

Even if this examination's main argument is unsound, it still does not mean that its conclusion is false. It might be true for other reasons than the ones the examination

[429] See ch. III.

offers. There might be a different line of reasoning, a sound one that does support the thesis. So the two preceding objections, even if correct and thus irrefutable, do not show that the thesis is false. But what if it is indeed false? What if, therefore, there is no sound line of reasoning that can support it? What if it is not true that M→R obtains as a tacit JV? As I preliminarily pointed out above, even the correctness of this strong objection does not seem to reduce this examination to naught. If the extension of the concept of abuse of power correctly refers to actual phenomena of significant proportion—that is, if unwitting abuses of power obtain practically universally and ubiquitously—then this examination's implications still obtain. Such unwitting, universal, and ubiquitous abuses call for vigilance and constant critical thinking about one's uses of one's own powers as well as about the uses of the powers of the collective that one is a member of. If we all might unwittingly abuse our powers, then we might all benefit from greater vigilance, deeper examination of the justifications for our actions, especially those that flow from our socially or politically or professionally acquired powers—powers that we seem to be legitimately entitled to use. The bad news is that our thinking might be fallacious and might lead us to abuse our powers; the good news is that our thinking can reflect on itself and catch itself before it goes down this fallacious path. Or can it?

2.2.5. What about the Evidence against Potential Control?

Let us assume that the objections have been successfully replied to, even if not refuted, by the fact that, in spite of the potential unsoundness of its main line of reasoning, this examination's call for control over tacit thinking regarding unwitting abuses of power guarantees its worthwhileness. What if this controlling quality is itself challenged? Much evidence from psychology seems to challenge the view that critical

thinking can be a potential way of positively controlling uncontrolled thinking and acting. What if these are uncontrollable or, at least, highly unlikely to be controlled in the desired way? Let us leave the answer to this question to the next section; here, let's examine briefly some of the evidence from the heuristics and biases research in cognitive psychology.[430]

Does all the evidence consistently challenge the kind of critical thinking control this examination calls for? Does it all show that control of automatic, unconscious, type 1, System 1 thinking and acting[431] by critical thinking is impossible? No, it does not.[432] Then does evidence show the improbability of this kind of control? This probability is still an ongoing issue,[433] which leaves the door open, however slightly, for the possibility

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[430] I do not examine the evidence from philosophy beyond what was examined in ch. IV and noted here because I assume that such evidence offers more support than challenges, from Socrates' "The unexamined life is not worth living" to Aristotle's practical syllogism to the assumptions founding the schools informal logic and critical thinking. Additionally, see, e.g., Ferrero's "Action" pp. 4-5 and 20-21; Sneddon's "Does Philosophy of Action Rest on a Mistake?" p. 517; McDowell's "What is the Content of an Intention in Action?" pp. 420, 422, 424, and 431; Anscombe's *Intention* pp. 62 and 65; and Hansen's *Fallacies*, regarding Mill on control, "The only complete safeguard against reasoning ill, is the habit of reasoning well; familiarity with the principles of correct reasoning, and practice in applying them" (86), as well as p. 88 on critical thinking as remedy and control over feelings. There is, furthermore, the issue of weakness of will or *akrasia*. See, e.g., Wilson and Shpall's "Action" sect. 2. The issue of *akrasia*, from *akrates*, *a-kratos*—akratic, a- (alpha privative) and suffix -cratic, adjectival form of -cracy, absence of rule, of control—however, presupposes the possibility of control ("Ακρατεια," *Intermediate Greek*). See also Sarah Stroud's "Weakness of Will."

[431] See sect. 3 of ch. IV for this terminology.

[432] I have yet to come across any argument for this impossibility of control, and I doubt I ever will. Although both those who focus on the negative aspect of heuristics—those within he heuristics-and-bias school—and those who focus on the positive aspect—those within the fast-and-frugal school of heuristics—are skeptical of the possibility of positively controlling intuitive, heuristic-based thinking—the former doubting the cognitive powers of overcoming significantly automatic thinking and acting, the latter doubting that these powers can ameliorate the situation by such overcoming—neither side argues for the impossibility of control; indeed, both sides presuppose it.

[433] The terminology of control includes the following terms: overriding, overcoming, driving, trumping, inhibiting, preventing, interfering, and intervening. See, e.g., Evans' "Intuition and Reasoning: A Dual-Process Perspective" (e.g., pp. 313, 314, 316-17, 320, 322, -24) or his "Dual-Processing Accounts of Reasoning, Judgment, and Social Cognition" (e.g., pp. 263, 266, 270, 271); *Neuronarrative*'s "Bridging the Empathy Gap: An Interview with J. D. Trout" p. 5 as well as Trout's "Paternalism and Cognitive Bias" pp. 408, 412, 417; Gigerenzer's "Moral Intuition = Fast and Frugal Heuristics?" pp. 3, 10, 16; Sunstein's "Fast, Frugal, and (Sometimes) Wrong" (e.g., "rethink . . . rules of thumb as the occasion demands" (27));; Driver

of positive control by conscious, type2, System 2 thinking, including critical thinking. This possibility of positive control does not require that all automatic processing be positively controllable. That some automatic processing can be positively controlled is sufficient reason for trying to control at least some of it; furthermore, given that it is not yet clear which kinds are positively controllable, it is worth trying to control whichever ones seem in need of control, a need that depends on a kind of action, a kind that itself depends on the probability of an unwitting abuse that the kind of action can effect.[434]

2.2.6. Realizing the Payoff

What if positive control is either impossible or improbable? What ought one to do? Ought one not to attempt control at all lest one wastes time and effort for naught? In the spirit of Pascal's wager, I wish to point out that if this examination's interpretation of unwitting abuses of powers is correct, then we humans have so much to gain by assuming

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and Loeb's "Moral Heuristics and Consequentialism" p. 32; Gigerenzer's *Gut Feelings* pp. 16-19, 33, 35, 37, 38, 40, 45, 47, 119, 132, 144, 185, 190-93 (e.g., "when one knows both the mechanism underlying moral behavior and the environments that trigger them, one can prevent or reduce moral disasters" (192)); Kahneman's *Thinking, Fast* pp. 26, 31, 41-43, 47-49, 51, 131, 133, 135, 153, 185, 216, 343, 346, 366, 394, 397, 408, 415, 417, (e.g., "Maintaining one's vigilance against biases is a chore—but the chance to avoid a costly mistake is sometimes worth the effort" (131)); Kahneman and Klein's "Conditions for Intuitive Expertise: A failure to Disagree" p.519; Stanovich's *What Intelligence Tests Miss* pp. 22-23, 26-27, 38-39, 41, 42, 50-51, 69, 71, 72, 74, 110, 115-19, 124-128, 180-83, 190-92, 230 (e.g., "There are many different non-conscious subsystems in the brain that often defeat the reflective, conscious parts of our brains" (116-17); "It is a general fact of cognition that subjects are often unaware that their responses have been determined by their unconscious mind, and in fact they often vociferously defend the proposition that their decision was a conscious, principled choice. We tend to try to build a coherent narrative for our behavior despite the fact that we are actually unaware of the brain processes that produce most of it. The result is that we tend to confabulate explanations involving conscious choice for behaviors that were largely responses triggered unconsciously, a phenomenon on which there is a large literature" (119)) (cf. Gigerenzer's "My first principle of moral intuitions states that people are often unaware of the reasons for their moral actions. In these cases, deliberate reasoning is the justification for, rather than the cause of, moral decisions" (*Gut Feelings* 190)), Stanovich's "An Exchange: Reconceptualizing Intelligence: Dysrationalia as an Intuition Pump" pp. 16-17, his "Environments for Fast and Slow Thinking" p. 198, or his "Cumulative Progress in Understanding Our Multiple Minds" p. 118; or Juho Ritola's "Justificationist Social Epistemology and Critical Thinking."

[434] I examine further the target kind in the following subsection.

that we can positively control our actions by examining critically our uses of our powers in order to avoid abusing them, while we have so much to lose otherwise.

What if attempts at control could lead to an increase in abuses? Only if this were the case, would we all be better off not trying to control. If, however, the worst that could happen is the failure to prevent an abuse that was going to occur, then trying to control is worthwhile. It is true that for some activities conscious control of them can have a negative effect. For example, conscious control over one's walking in a public context in which one is trying to insure that one is walking properly could hinder one's so-called self-conscious movements and interfere with the walking in ways that does not occur when one walks automatically. The same could be said of athletes consciously controlling their bodily movements such as their catching or throwing in an attempt at improving their techniques, yet in the process making things worse. While it is the case that overly self-conscious control over bodily movements can interfere with them, it does not seem to be the case that activities that could be abuses of powers would be negatively affected by conscious control because here the issue regards agential responsibility and not nervous interference. As noted above, some do see almost all activities, which would include by probability alone even potential abusive activities, as more likely uncontrollable in positive ways.[435] This disagreement might not be resolvable, at least, not in the near future: it might reflect fundamental differences in views on rational control. So let's assume that conscious, critical control can have positive effects. Where and when is there a need for such control?

[435] In *Gut Feelings*, Gigerenzer challenging the positive-control view cites Whitehead's "It is a profoundly erroneous truism . . . that we should cultivate the habit of thinking what we are doing. The precise opposite is the case. Civilization advances by extending the number of important operations which we can perform without thinking about them" (41).

The apparently non-prohibited or permitted domain of action is the domain in which vigilance and critical reflection is crucial. The grey area that appears clear is the one in play.[436] This area appears as the realm of actualization of potential, and only explicit prohibitions normally limit actions in this realm. Agents must realize this and be vigilant for situations in which apparently non-prohibited or even permitted actualizations ought to be limited or avoided. The distinction that I have stressed and kept between the terms "actualizing" and "realizing" bears fruits here. Actualizing one's potential is not always the same activity as realizing one's potential: "realizing" can mean actualizing with some awareness. While actualizing potential can occur without the awareness of the right to actualize, realizing potential can imply this awareness—that is, it can be the realization that there is a right to actualize. Indeed, realizing can even lead to choosing not to actualize because one is aware that the actualization of the potential is improper, the use of the power illegitimate—that is, that actualizing in the given situation is an abuse of power.[437]

This distinction reveals the possibility for imaginative and reflective realization—that is, realizing without actualizing (without acting), but by imagining and considering and reflecting on and thinking critically about one's use of one's powers in a given situation. This can be done by using past actualizations in examining the present situation

[436] Cf. Anscombe's "an individual will constantly think himself in the right whatever he does" ("War and Murder" 44). This is why there is a need for critical thinking about our own uses of our powers. Our default automatic mode of operation seems to be that if we have a power it is legitimate until proved illegitimate and its use is legitimate unless proved illegitimate. Our critical thinking power is called for in order to examine constantly the legitimacy of our acting power and the legitimacy of our use of it.

[437] Cf. Williams' "Reflection may lead the agent to see that some belief is false, and hence to realise that he has in fact no reason to do something he thought he had reason to do" (*Moral Luck* 104). Cf. Weil's "Only he who has measured the dominion of force, and knows how not to respect it, is capable of love and justice" (Miles 192). Weil seems to be saying that it is not M→R, but rather that at times it is the conscious lack of use of might that makes right.

in the hope of realizing the meaning and consequences of potential future actualizations. By realizing that one has been in the habit of actualizing in similar situations in ways that one later recognized as unjustified, one might be able, if one does not wish to repeat the unjustified act, to check before acting.[438] These calls for realizations in reflections rather than in actions can lead to critically reflective non-actions in contrast to unwittingly unreflective actions, and can thus lead to a reduction of abuses of power.[439]

A slogan such as the American Army's "Be all you can be" can refer to mere actualization, but it can also mean, "Realize your potential and then actualize it": not merely to actualize oneself, but additionally and ideally to realize one's true self and thus have an opportunity to actualize this true self.[440] When Socrates says that "the

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[438] Evans' concluding sentence seems to echo this point within a pedagogical context, a context I care about: "From an education viewpoint, we need not just to find ways of training people to reason well. We also need to find ways of making people aware of the situations in which such effortful processing needs to be applied" ("Intuition and Reasoning: A Dual-Process Perspective" 324).

[439] A paradoxical point regarding unwitting abuses of power is that we suffer the abuse even as we abuse others. Unwitting abuses also happen to the abusers because they are pathetic activities, passive not active ones, not controlled consciously by the agents. The passive voice is appropriate: our powers are abused by us, they are used abusively by us, etc. This might explain why calling bullies on their bullying often leads them to cry out as victims: perhaps they are, indeed, themselves victims not only of past actions by others but also of their own ongoing actions.

[440] This points to the issue of self-interest. Being an issue as complex and broad as M→R, I do not claim to do it justice here in a footnote; nonetheless, I would like to point to its connection to M→R. Thrasymachus' and Callicles' versions of M→R in their definition of justice as the advantage of the stronger—with "the advantage" read as "the self-interest"—might be a correct definition if the stronger is interpreted as the wiser, in which case, the advantage, the self-interest merges with the good of the true self, etc. The persistent view that M→R and that humans are self-interested or always act self-interestedly relate analogically, but they also reflect the same principle (M→R2), namely, that one has the right to take care of oneself, to actualize one's potential, etc. Is there a similar ambiguity in the concept of self-interest? Does self-interest mean either selfish or good for self? Can acting self-interestedly mean either acting selfishly or acting in the best interest of one's true self? Is the concept of self-interest then inherently paradoxical? What is the end of self-interested action if not the good of the self? But then the good of the self is valued more highly than self-interested actions since they are merely the means to the end. So if there are self-interested actions that are not good for the self, then the self would not wish to undertake them, and if there are actions that are good for the self but that are not commonly considered self-interested, then the self does not always perform self-interested actions as it is aiming at its own good. If actions for the sake of others—other-interested actions—can be the means to the good for a self, then some other-interested actions are also self-interested, so not all self-interested actions are selfish, if by selfish is meant not other-interested. This seems to deflate the claim that all actions are self-interested since not all of these are selfish, so "All actions are self-interested" merely means "All actions by a self are meant for the good of this self even

unexamined life is not worth living" is he also saying that living an unexamined life is living a life that is not one's proper life, that is, not the life of one's true self.[441] When one unwittingly abuses one's powers and yet considers oneself not an abuser, then one is not living one's proper life, one is not being one's true self. Aristotle offers an enlightening etymology regarding ethics: from habit (εθος, *ethos*, short eta) we get character (ηθος, *êthos*, long eta)—habit forming character.[442] If we're in the habit of unwittingly abusing our powers, might we be unwittingly forming our abusive character? Only conscious, critical control over our habits might help us to form our character properly, to form our proper character, our true self.

It is said that power corrupts. This examination shows that power also confuses. The proper interpretation of the former warning seems to be that power often corrupts if by power is meant great amounts of it and by corrupt is meant the transformation of agents' motivations from good to bad or even to evil intentions. The focus of this examination is on another aspect of power and on power in its broadest sense, referring to all kinds of powers, powers that all humans possess. This aspect of power has a practically universal and ubiquitous effect and is thus of greater significance. Thus let us grant that power often corrupts the few who have an immense amount of it; what is more

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when the actions are other-interested." This brief analysis reflects partially my understanding of Socrates' reply to Thrasymachus regarding leaders apparently acting in their own interest, yet mistakenly acting against their own good. M→R2 fallaciously equivocated with M→R1 reveals an improper application of a living principle: "improper" can mean not one's own, not one's own to actualize given the circumstances, given that it might affect others in a harmful way and thereby ultimately harm one's true self. Some might object that I'm begging the question with the last point by assuming that one's harming others harms one's true self. These objectors might be correct; perhaps they would agree with Socrates that they would disagree with him and Crito on this point: "wrongdoing or injustice is in every way harmful and shameful to the wrongdoer" (49b). They would likely also disagree with Socrates and Crito by answering in the affirmative the question Socrates asks Crito and the rest of us: "And is life worth living for us with that part of us corrupted that unjust action harms and just action benefits?" (47e).

[441] Cf. the saying, "Know yourself," inscribed at the Oracle at Delphi.

[442] This offering is in his *Nicomachean Ethics*, book II, ch. 1 (1103a10-20). See Sachs' note on p. 22.

urgent for all of us is to recognize that power in any amount often confuses any and all, and that, therefore, we all need to insure that we do not, even with the best of intentions,[443] use our powers in a confused manner, in such a way that we end up unwittingly abusing it, unwittingly living by M→R.

2.3. Never Forgetting — Yet Forgiving

To err is human, to forgive, divine.
Alexander Pope[444]

"Forgive and forget," so the saying goes. This examination, in line with the views of others, seems to suggest, "Forgive, yet never forget."[445] This latter suggestion seems difficult to follow. Although the former asks us to forgive before we forget, which makes sense since forgiving presupposes remembering what is to be forgiven, the latter, by asking us to never forget, calls on us to always forgive the harm we have not forgotten—the kind of forgiving, then, that goes with the never forgotten is an ever *re*-forgiving. This is indeed a challenging task. How many of us can do truly this? What if, however, the harms that one is to never forget are primarily one's own perpetrated against others? What if, furthermore, what one needs to never forget is not only the harms one has committed, but also, and what is perhaps more significant, the ability one has to harm, especially the potential of doing so unwittingly? Potential control over potential violence calls for constant vigilance. Constant vigilance calls for remembrance. When one vigilantly remembers that one, like everyone else, can and often does unwittingly live by the maxim "Might makes right," then, hopefully, one has an opportunity to be open to

[443] Cf. the common saying, "The road to hell is paved with good intentions."

[444] As the epigraph in sect. 5 of ch. IV shows, the saying "To err is human" is an old one, predating Pope's "Essay On Criticism" (80); I have not found a Latin equivalent to the second half of the verse.

[445] There is a Jewish saying that goes something like this and that I heard growing up, without completely understanding it, though it made me think about the death camps.

forgiving others as well as oneself. "To err is human," the old saying goes; thus, "To erroneously harm is human," must obviously follow.[446] Whether, ultimately, "to forgive is divine," we humans—given our often fallacious, yet rarely malicious, ways—ought to forgive[447] and to choose wittingly sound ways, along the wider path of greater control and ever more forgiveness.

[446] Cf. the common expression, "It's not my fault," or our fault, or your fault, or their fault. Furthermore, cf. Weil's notion of attention: see, e.g., *Waiting for God* pp. 105-16, 149, and 153-55.

[447] Cf. Arendt on action's irreversibility and unpredictability and the need for forgiveness, in *The Human Condition*, section 33, "Irreversibility and the Power to Forgive," as well as section 34, "Unpredictability and the Power of Promise."

APPENDIX

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