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A theory of resistance

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A THEORY OF RESISTANCE

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CERTIFICATE OF APPROVAL

PHD THESIS

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Abstract

This dissertation began with the question of how best to theorize resistance within the philosophy of social practices, where issues surrounding norms and community are common. It quickly became apparent that to theorize resistance, we had to get into more than the philosophy of social practices; we also had to look to political and moral philosophy. The approach taken was to interrogate the status of (moral, social, and political) norms within communities, and to interrogate the scope of the term 'community' in the expression 'community practices.' One thing this dissertation attempts to show is the rarity of legitimate authority and the fragility of social organization and moral order, by taking the naked abuse of power as a fundamental (and all too frequent) datum, and the boundaries of community as constantly shifting, being negotiated and renegotiated through practices of signification.

In the philosophy of social practices, unless we are careful, we may be tempted to identify communities according to common conformity to norms within those communities, taking a 'statistical regularity' approach that does not pay heed to the attitudes of community members, while simultaneously taking for granted the scope of the term 'community' in order to identify statistically regular patterns of behavior within them. Such an approach also represents boundaries of communities as somewhat fixed, which in turn raises questions of commensurability between communities.

Moreover, resistance to conformity within communities, on such an understanding, would have to present itself as a puzzle: if communities are identified by patterns of conformity, then is non-conformity within communities possible? We know that non-conformity in general is possible, so what (on this account) explains it? Are they simply helpless derelicts or reprobates? This seems all too implausible as a generalization. Is non-conformity in groups then simply the creation of a new community conforming to different standards? Does this imply an ontological proliferation of idiosyncratic 'communities,' which at its extreme must countenance 'communities of one' wherever idiosyncratic non-conformists appear? How can we have a conception of community that does not have this undesirable result? The solution to this puzzle arises once we reject the conception of communities as isolated

incommensurable groups of more or less strict conformists. Instead, our discussion attempts to reveal communities within which contestation occurs in addition to conformity, where standards of practices are themselves susceptible to considerable modification and experiment. Standards are set, raised, lowered, abandoned, rediscovered, repurposed, rejected, and modified in the activity of those to whom standards are meant to apply. This dissertation aims to reveal communities of people who use, endorse, adapt, repurpose, modify, create, subvert, and sometimes even openly resist the norms of those communities in which they find themselves.

I aim to show that resistance to social norms within communities is possible to theorize once we develop a sufficiently nuanced account of community (which requires attending to political and moral elements in community formation, reformation, and transformation), according to which membership in a community is not defined by conformity, nor by shared judgments, conceptual frameworks, or comprehensive worldviews. Instead, communities share terms of discourse such that discussion about judgments, conceptual frameworks, and comprehensive worldviews is possible. The basic idea is that there is already contestation within communities, and they form around common concerns or perceptions of problems (sometimes veridical, sometimes not), rather than around central comprehensive doctrines. This contestation plays a major role in determining the identities of communities, while accounting for the fact that these identities are constantly shifting.

By retaining the broadest possible scope for normativity, one that includes moral, political, and social norms, we can directly interrogate numerous elements of our social worlds at once, in ways that illuminate the interplay and interdependence of the social, political, discursive, and moral norms of our own communities. Key to understanding this discussion is recognizing the possibility of a norm being treated by fellow community members as morally binding, while that norm itself is understood to be morally illegitimate from another rationally available standpoint. The legitimacy or illegitimacy of moral norms, then, is established by the better reason, not by statistical regularity of endorsement, nor by endorsement from powerful institutions who presume (and often only pretend) to wield legitimate moral and political authority. This way of thinking has its own puzzle: how can

one tell who (if anyone) has the better reason? I offer no solution to this puzzle. Instead, I identify it as a question that needs to be asked again and again of everyone, including and especially those who self-identify as 'leaders' and 'authorities.' Such matters are not easy to settle, but this in no way entails that moral knowledge is impossible or that there are no moral facts. But it does recognize the possibility of so-called spiritual and political leaders lacking the moral knowledge they claim to have. It also recognizes the possibility of (better) moral knowledge among those frequently regarded as deficient by 'authorities' than among those 'authorities' themselves.

On a more general note, this is for everyone who has been in the middle of doing something and asked themselves: What are we doing here exactly? Why does it matter to us that we do what we do, and what about it matters? That experience of no longer understanding one's world, of no longer identifying with some collective identity or collective effort, is where I want to begin. These moments make it possible to look at how our social worlds operate, by placing us outside of them, so to speak, and in so doing, placing us outside of ourselves, so that we are exposed.

When we stop to look at how things are operating, this interrupts regular operations (the smooth flow of things). Observing the operation of things, we can ask how these things ought to be operating, or if they ought to be operating at all. Sometimes these stoppages happen just because things break down. But sometimes we have to break things down (barriers, concepts, machinery), or break things down to people. Yet it isn't just about breaking things down, but also about building. We need to rediscover how to build communities who are working at becoming and being better. This means not hiding behind one institution in order to criticize another, but instead exposing all institutions to one another and themselves for reflection. By holding up a mirror to ourselves and our institutions we can avoid the pernicious projections of false identities onto those "we've" identified as "others," and learn much about ourselves in the process.

Resistance to prevalent norms can take the form not only of open confrontational opposition, but also of simple noncooperation, and I contend that noncooperation deserves

more theoretical attention than it tends to receive. I focus on nonviolence primarily because it makes morally ambiguous forms of resistance and noncooperation somewhat less so.

Resistance of this sort is distinguished from civil disobedience in that it does not necessarily entail a breach of law, but does entail a breach of expected behavior, whether social, legal, or moral. This will involve retracing some well-worn concepts like civil disobedience,[1] moral justification, and moral epistemology. In the process I appeal to accounts of moral reasoning that focus on analogies and narratives as central (not peripheral) to moral understanding and moral justification, for they explain how we got into the situations we are in, and aid us in imagining how we might proceed from where we are.

What is the specifically moral relevance of nonviolence? By resisting nonviolently, resisters offer those they are resisting an opportunity for reflecting on their actions. It raises a mirror up to society so that it may show itself to itself. Violent resistance is vulnerable to be seen as morally ambiguous at a minimum, and so offers less opportunity for questioning the justifications of our practices, for it also calls into question the practices of those resisting violently. This does not mean that such violence is never justified. But they are not within the scope of the theory to be developed here.

Finally, I pointed out that the concept of civil disobedience does not cover enough territory for the kinds of social modifications I want to bring into view. Nonviolent resistance covers a great deal more ground by questioning not only what the community is doing legally but also socially, while also asking who the community is and what it stands for, and what the community wants to be like. While social theory has to ask and answer the question, 'How do we know we are going on as we have before?', moral theory must press that question one step further by asking, 'How do we know that we *should* go on as we have before, that what we are doing is legitimate?' And we have to carefully examine the purported justifications of

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[1] Recent debates in civil disobedience literature are concerned with whether violence to achieve political justice can be civilly disobedient (where morally justified), but most accounts argue that breach of the law is a necessary condition for civil disobedience. This, of course, is not necessary for resistance to social norms. One can be 'odd' without breaking the law. However, it may be noted that certain characterizations of 'civil disobedience' will fall under the much wider scope of the theory to be developed here.

institutions against their actual operation from a social, moral, and political standpoint that is historically informed.

Public Abstract

The dissertation attempts to answer the question of how to theorize resistance from within the philosophy of social science. To answer this question we must consider more than just the philosophy of social science; we also must look to political and moral philosophy. Resistance to the social norms of one's community is possible to theorize from within the philosophy of social science once we develop a sufficiently nuanced account of social and moral communities (which involves identifying political and moral elements in community formation, reformation, and transformation), according to which membership in a community is not defined by sharing judgments, conceptual frameworks, or comprehensive worldviews, but by sharing terms of discourse so that discussion about judgments, conceptual frameworks, and comprehensive worldviews is possible. Understanding the structure of one's moral community is not the same as to endorsing that structure. This suggests that contestation is already present within communities about what 'we' do, up to and including who 'we'—as a 'community'—are. Challenging communitarian understandings of what makes a community a community (usually construed as 'cultures', understood somewhat monolithically), I argue that communities are best understood as forming around common concerns or perceptions of problems (sometimes veridical, sometimes not). This contestation plays a major role in determining the identities of communities, and these identities are constantly shifting.

A Theory of Resistance

Chapter 1 Brandom and Unavoidable Political Implications

1. The Topic of Nonviolent Resistance in the Context of Theories of Social Practice and Normativity

The topic of this dissertation is nonviolent resistance. The concept of nonviolent resistance is not new to philosophy, but typically it only comes up in the context of social and political philosophy.[1] My discussion of nonviolent resistance breaks with this convention by discussing and articulating a theory of nonviolent resistance that begins by looking at theories of social practice and their corresponding accounts of the nature of normativity. Once we have situated the concept of nonviolent resistance within theories of social practice and normativity generally by tracing the normative attitudes in play wherever norms are in place, we will be better equipped to apply what we have learned in the more common and specific context of social and political philosophy. Although theories of social practice enjoy widespread acceptance in various fields, from philosophy to rhetoric to social science to literary criticism and beyond, for our purposes we will focus on one exemplary theory of social practices and normativity: that of Robert Brandom, spelled out in *Making It Explicit* (1994), because it provides a useful discursive normative framework for crossing over into moral and political philosophy.

When people break with established convention, it is common that some justification be demanded for that breach. Hence, breaking the convention of discussing nonviolent resistance primarily under the auspices of social and political philosophy calls out for explanation. It is important to begin discussing nonviolent resistance from within theories of normativity generally, and Brandom's theory of the normative pragmatics of linguistic practice in particular, for three main reasons. First, the terminology Brandom introduces and deploys is ripe for application in social and political philosophy and meta-ethics. This terminology provides us a means with which we can expand the scope of the discussion

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[1] See H. A. Bedau (ed.), *Civil Disobedience in Focus* (1991); and *Civil Disobedience: Theory and Practice* (1969). This will be a much longer list most likely.

regarding civil disobedience in social and political contexts to resistance generally, encouraging political philosophers to more frequently consider non-standard cases—cases seldom discussed or not considered 'civil disobedience' within social and political philosophy—which are yet important to a full articulation of the concept of resistance and which can inform the discussion of civil disobedience in political philosophy. Second, Brandom's theory of normativity, while introducing and deploying terminology we will find essential in articulating a conception of nonviolent resistance, nevertheless requires some supplementation for it to work out. Students of Brandom are familiar with his reticence to discuss the moral and political implications of his work, but it has often been noted that his theory might be committed to the necessity of discussing these very implications. Third, parallels abound between elements in Brandom's pragmatic theory of language and various theories deployed by important figures in twentieth-century social and political philosophy and the philosophy of law, including H. L. A. Hart and the early John Rawls.

Equally interesting parallels abound between Brandom's pragmatic theory of language and important contemporary figures in moral philosophy, political philosophy and feminist ethics, including Seyla Benhabib and Margaret Urban Walker. For one, Brandom's conception of 'deontic scorekeeping' seems somewhat analogous to Walker's conception of 'practices of responsibility', in that they both provide a vocabulary for talking about similar functions: within a community, our practices of mutual moral accounting make clear who is responsible for what and who can get away with what, as a matter of intersubjective overlapping acknowledgment, if not exactly by complete agreement or ringing endorsement.

Both Brandom and Walker emphasize that within a particular community there will be numerous and various perspectives. Brandom explicitly denies that there is a privileged perspective of 'the community' that immediately determines the content of a norm. Similarly Walker, by focusing on the moral perspectives (and moral knowledge) of historically marginalized and oppressed groups, calls into question many 'settled' moral opinions in the 'community' of moral philosophers, while proposing modifications in the methodology of moral philosophy informed by those marginalized perspectives. Walker provides an account of moral knowledge and competence along the way. To develop her model, she challenges

models of moral individuals and reopens questions of the conditions of moral justification for claims to authority or demands for obedience and acknowledgement.

As I mentioned earlier, for Brandom there is no global perspective of 'the community' as such, and the perspective of the individual is simply one among many. What accounts, then, for objectivity? Brandom, it seems, thinks this question is somewhat misguided. For the fact that people have perspectives at all already presumes taking objectivity to be a structural component, so to speak, "baked in" to the act of perspective-taking, holding and being held accountable is the recognition that we are responsible for making our case. That is how and why we hold one another accountable.

This denial of a global community perspective in Brandom is interesting when compared with the concept of communitarianism in the literature of multiculturalism, according to which being a member of a community is envisioned as sharing in its communal values, understanding and endorsing them. While many of the communitarian critiques of liberal individualism are apt, I share Seyla Benhabib's concerns about ontologizing cultural communities into monolithic wholes with fixed boundaries, unique (and disconnected) histories, and potentially incommensurable values. Here again Brandom's work seems to have parallels in political philosophy.

Although the parallels between Hart, Rawls and Brandom are interesting and so will warrant some discussion in this chapter, the remainder of this work will focus primarily on the latter parallels. Developments of political philosophy inspired by Wittgenstein have already found a home in feminist philosophy, particularly the works of Hannah Pitkin, Peg O'Connor and Cressida Heyes.[2] It is to this tradition that the present work intends to contribute.

By first discussing normativity generally, we will see that non-compliance and resistance are not merely special problems for social and political philosophy or the philosophy of law, but

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[2] See e.g. Heldke, Lisa and Peg O'Connor (eds). (2004). *Oppression, Privilege & Resistance: Theoretical Perspectives on Racism, Sexism, and Heterosexism.* McGraw Hill: Boston; Heyes, Cressida (ed). (2003). *The Grammar of Politics: Wittgenstein and Political Philosophy.* Cornell University Press: Ithaca; Pitkin, Hanna. (1972). *Wittgenstein and Justice.* University of California Press. Berkeley.

are problems central to the theory of normativity itself, and by extension to all theories within the domain of normativity, including morality, law, politics, and culture. Thus, a wider conception of resistance or critical evaluation of norms that begins from within the theory of normativity at the level of the construction and maintenance of norms can inform philosophical responses to problems that arise in each of the various domains governed by normativity, such as philosophy of law, philosophy of culture, and social and political philosophy. The lessons we learn from a general theory of normativity can be translated into the discourse and manner of speech of each of these distinct philosophical pursuits in ways that shed light on how violations of norms are often viewed in social and political philosophy, and how some of these violations can perhaps be better understood.

The following lines of thought will be developed in this chapter, the remainder of which is dedicated to vindicating these four claims: (1) that Brandom's terminology from *Making It Explicit* can be fruitfully transferred into the conceptual framework of social and political philosophy; (2) that theories of social practice have not yet adequately considered the concept of resistance and varying attitudes about norms *within* a community whose members nevertheless takes themselves (for better or worse) to be subject to these norms; (3) that Brandom's conception of normativity as I interpret it can provide a response to this challenge; (4) that this interpretation of Brandom's conception of normativity will yield numerous dividends for social and political philosophy. The last of these claims will require the entirety of the dissertation to fully articulate and defend, but we will provide a glimpse of how this will go in this chapter.

The structure of this chapter is as follows: We begin by laying out the features of Brandom's account that will prove essential for our conception of nonviolent resistance. Then we discuss problems that arise when trying to situate nonviolent resistance within Brandom's normative pragmatics. These problems are solved by taking a closer look at the normative attitudes that people have toward norms implicit in practices, forcing us to slightly refine Brandom's exposition of normative attitudes. This refinement allows Brandom's normative pragmatics to make space for the evaluative, self-reflective element implicit in the creation and

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maintenance of norms, but raises questions about the scope of the authority of communal norms, discussed in Chapter 2.

2. What Rules Could Not Be

Brandom explains the scope of *Making It Explicit* in the following way: "This book is an investigation into the nature of *language*: of the social practices that distinguish us as rational, logical, concept-mongering creatures—knowers and agents" (1994: xi). As knowers, we understand that there is no knowledge without justification: that is, claims to knowledge must be vindicated if they are to count as knowledge. As agents, we often expect to have to justify our actions to others: we understand that actions, like claims to knowledge, are such as to be subject to demands for justification. All this goes on in the shared social space of giving and asking for reasons. Reasons can be demanded and given for beliefs, claims to knowledge, or actions. As human beings, we "are subject to the peculiar force of the better reason" (1994: 5). This force is a normative force in our lives.

Normativity is intrinsically related to attitudes people have and express in their behavior and discursive practices. Of course some norms come in the form of explicit rules, but not all. Norms have, according to Brandom, a much wider and more pervasive scope than explicit rules: "Norms that are *explicit* in the form of rules presuppose norms *implicit* in practices" (Brandom 1994, 20). That is, explicit norms only get one so far; what is and is not an instance of a rule is to be found out, not from other rules, but from how people react to performances that are subject to rules. The norms implicit in practice are expressed in the attitudes people have, that is, whether or not they take a rule to have been applied correctly is expressed in the responses (assessments of correctness or incorrectness according to the norm) that people make toward particular performances. Assessments of performances often take the form of explicit criteria, for instance when an instructor provides a rubric for assessing an essay. However, in the final determination of where and how to apply the rubric, what categories to use, and what fits into each category or does not, the recitation of explicit norms comes to an end. This end is not the emptiness of arbitrary decision-making, but rather the application of a subtle skill which through long practice can identify categories and

assign rewards and penalties without too much deliberation or trouble. There will always be special cases, but the recognition of them as special cases depends on the more common recognition and skillful handling of "normal" cases.

One of Brandom's more striking claims is that not all norms can be made explicit. The idea that all norms can be cashed out as explicit rules, which Brandom calls 'regulism,' fails due to a regress of rules and a regress of interpretations. The trouble arises in the application of norms: How can we tell when a rule has been applied correctly? After all, "The rule determines proprieties of performance only when correctly applied" (Brandom 1994: 20). If, in order to know whether a rule had been applied correctly, we needed another rule to be able to tell—in other words, a rule for interpreting that rule—then we would also need a rule for interpreting *that* rule, and so on *ad infinitum*. The notion that all norms can be cashed out in terms of explicit rules, therefore, leads to infinite regress. This point comes directly from Wittgenstein (2009, §§198-201), and has been developed and deployed by a number of thinkers.[1]

Recognizing this failure, some theorists move toward a theory of norms according to which norms are represented by statistical regularities in behavior. Brandom also dispenses with the idea that norms are simply regularities in behavior, following Wittgenstein (2009), Hart (2012 [1961]), and Rawls (1955). This idea, which Brandom calls 'regularism,' fails due to its inability to account for the fact that, for every norm, it is possible for a person to fail to act according to it. By identifying statistical regularities with norms, the possibility of violating norms is canceled out, or rather transformed into the result of a count of who does and does not 'conform', leaving all questions as to the propriety or impropriety of this performance unasked and unanswered. Without the possibility of getting it wrong, there is no norm: being statistically "normal" has little normative force. On this view, while it may be possible for *individuals* to violate the expectations of their communities, and in so doing, go 'wrong' with respect to some particular norm, it is impossible for *communities* to be wrong

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[1] See Fogelin (1987), (2009); McDowell (1984) for exemplary discussions of the rule-following problem, on the latter of which Brandom relies in his exposition.

about the meanings of the terms. It is impossible for communities to be wrong in their employment of concepts, impossible for communities to be wrong with respect to whether and how their concepts work. In other words, the community has some kind of globally privileged perspective.[2] Aside from the questionable analogy between individual perspectives and the so-called 'community perspective,' this view suffers from a more serious defect: if norms are defined solely in terms of conformity to them, then how can we tell when we have a case of conformity, and how can we tell when we have a case of non-conformity, without recourse to the norm in question? In other words, this does not so much define norms as it does presuppose them to be in place, and appeal to them in defining them.

We know that it is causally possible for people to fail to behave according to norms. If I drop a sandwich, it will fall and cannot fail to fall. But if I make a promise, it is altogether possible for me to fail to keep it. The former is governed by causes, the latter by norms. So one major problem with regularism about norms is that it collapses the distinction between norms and causes. In addition to being constrained by causes, we are constrained by norms. Our being constrained by norms is crucial part of being reason-giving creatures. By collapsing the distinction between causes and norms, regularism closes the possibility of exploring a crucial component of our practices of giving and asking for reasons.

Equally troubling for regularism is the issue of determining which statistical regularities *ought* to count as norms, and which *ought not*. For not all statistical regularities seem relevant to norms. If a population, for instance, regularly digests its food, should that count as a norm? If so, why? If not, why not? Regularism must provide a principled distinction between statistical regularities that *ought* to count as norms and ones that *ought not*; so regularism does not solve the question of the nature of normativity but instead only pushes the question back a step. Brandom calls this concern, and the concern articulated in the previous paragraph, the "gerrymandering" objection to regularism. Brandom argues that some principled way to make out the distinction between events subject to causes and actions subject to norms is required of any satisfactory account of normativity. But the regularist fails

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[2] Cf. Brandom (1994, 599).

to deliver any account of this distinction. According to Brandom, with whom I have sympathy on this point, the distinction should be made by appealing to the attitudes community members have toward the rules to which that community takes itself to be subject, not by appeal to statistical regularities.

So what makes for the authority of norms? According to Brandom, the authority of norms depends on their acknowledgement and acceptance among those who consider themselves subject to them.[3] Regularism cannot make out the difference between someone who follows a rule *because* it is the rule, and someone who acts in accordance with a rule out of luck or habituation or fear of reprisal. Brandom puts the point in this way:

> The immediate difficulty with such a proposal is that it threatens to obliterate the contrast between treating a performance as subject to normative assessment of some sort and treating it as subject to physical laws (1994, 27).

No one disputes that actions and language conform to causal regularities, or laws of nature; hence it is difficult to see how regularism can make good on the distinction between what is done and what ought to be done; indeed it seems to collapse that very distinction. That there is (or at a minimum can be) a difference between what is done and what ought to be done is taken for granted whenever we speak of someone treating a performance as subject to normative assessment. Of course, we can and do identify regularities and irregularities in human behavior. The trouble is that when we do so, we are implicitly committing ourselves to the idea that some series of performances *ought* to count as 'regular', and that some other series of performances *ought* to count as 'irregular'. Setting up these norms that govern what is to count as regular or irregular behavior is itself a normative endeavor. Since no way to distinguish what ought to count as regular and what ought to count as irregular behavior is offered, this kind of move does not solve the question of how to account for the distinction between what is done and what ought to be done (cf. Brandom 1994: 28).

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[3] This point has also been developed by H.L.A. Hart (2012 [1961]) *The Concept of Law* and by John Rawls (1955) "Two Concepts of Rules."

The failures of regulism and regularism provide conditions of adequacy for a theory of normativity. On the one hand, we need to recognize that not all norms can be cashed out in terms of explicit rules. On the other hand, we need to recognize and respect the difference between what people actually do and what they are obligated to do. The crux is to describe normativity without appealing only to explicit norms and without dissolving the distinction between what people do and what they ought to do. The idea is not that because we are subject to norms we are not subject to causes; the idea is rather that normativity impinges on us *in addition* to causes. The account of norms should therefore not reduce norms to causes, since they operate in addition to causes.

3. Rules Function As They Do Because We Acknowledge Them

The way to understand how norms operate without appealing *only* to explicit norms and without collapsing the distinction between causes and norms is through the introduction of the concept of normative attitudes. Brandom claims that our discursive "practices must be construed both as not having to involve explicit rules and as distinct from mere regularities" (1994, 29). What is required is an account of norms implicit in practice. Explicit rules are only one form that norms can take, and they make sense only "against a background that includes norms that are *implicit* in what is *done*, rather than *explicit* in what is *said*" (1994: 30).

There are two main aspects of Kant's thought that Brandom is drawing upon in his discussion. The first is the distinction between causal modalities and the more properly normative "ought" which we use to distinguish humans (who are subject to them) from other animals. The second is that Kant provides an account of the nature of this normative compulsion that is compatible with recalcitrance on the part of individuals. In other words, it is possible to fail to obey a rule, whereas it is not possible for us to defy the law of gravity.

Brandom attributes to Kant the thesis that we act according to our conception or understanding of a rule rather than according to any representation of it. Thus, our normative attitudes shape and inform the norms implicit in practice. "The rules do not immediately compel us, as natural ones do. Their compulsion is rather mediated by our

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attitude toward those rules" (Brandom 1994, 31). In other words, it is not the rule itself which compels us to act but our acknowledgement of it. In norms there is always room for conflict between the rule and action, whereas in laws of nature there is no such room. We not only act according to rules, but "We rational beings are also capable of grasping or understanding the norms, of making assessments of correctness and incorrectness according to them" (Brandom 1994, 32).

Our normative attitudes reveal themselves in these assessments, and are responsible for shaping the norms to which our community is subject. There are clear parallels with Hart's (2012 [1961]) analysis of rules in his work *The Concept of Law*. Hart believes it is a mistake to understand rules as summaries of past instances or as orders backed by threat of sanction from top-down authorities. Those who are subject to rules and believe themselves *legitimately* subject to rules follow rules because they think those rules are important to the functioning of their society, not simply because they fear punishment or expulsion from the community. This is one way in which Hart distinguishes rules from habits. Rules are reinforced through various mechanisms of social pressure. This social pressure is the result of the attitudes that people who believe themselves subject to norms have toward those norms. Norms are perpetuated and reinforced by those subject to them whenever and wherever norms are acknowledged.

> "[The] social pressure may take only the form of a general diffused hostile or critical reaction which may stop short of physical sanctions. It may be limited to verbal expressions of disapproval or of appeals to the individuals' respect for the rule violated; it may depend heavily on the operations of feelings of shame, remorse, and guilt. When the pressure is of this last-mentioned kind we may be inclined to classify the rules as part of the morality of the social group and the obligation under the rules as moral obligation" (Hart 2012 [1961]: 86).

Part of what it is to be a member of any community is to be subject to the norms endorsed by individual members of that community (whether or not one endorses them oneself). Being a member of a community is not simply a matter of being someone who always follows all of the rules of that community. "Being a member of a community is rather being one who *ought* to conform to the norms implicit in the practices of the community. Community membership has this normative significance; it is a normative status" (Brandom 1994: 39). Brandom, like Hart, is also quick to point out that sanctions need not always be

physical. Although community membership is a normative status, within any community there is a variety of statuses that can (or cannot) be occupied by particular individuals. Punishment might take the form of being denied certain permissions, as in Brandom's example of someone punished by being denied permission to attend an event of social significance. Ticket-holders have different permissions than those who do not hold tickets, when it comes to any event for which tickets are required. Similarly, within any community there will be experts whose authority is less susceptible to challenge by non-experts than by other experts. The authority of the expert just is this kind of intra-community distinction in normative status. And through mechanisms of evaluation, authority can be challenged and displaced, demoting the normative status of the erstwhile authorities. Sanctions, then, can also take the form of changes in deontic status. Credentials can be given or revoked. The revocation of a license is the revocation of all of the privileges and duties associated with that license. A decline in the recognition of authority can often traced back to its abuse.

There are several implications of this view, which Brandom extracts throughout the remainder of *Making It Explicit*. For our purposes, only the following aspects of his view are required for what follows. A datum from which Brandom's view begins is the fact that, in linguistic and other practices, we reciprocally hold one another to account for what we say and do. Brandom calls this practice of holding one another to account 'deontic scorekeeping,' and it is irreducibly normative. Our normative attitudes coalesce and collaborate in the process of keeping track of the commitments we have ourselves undertaken as well as those others have undertaken. As will be discussed below, however, they also occasionally diverge.

In discourse for instance, to make a claim is to commit oneself to that claim. The correlate of commitment is entitlement, where one is only entitled to a claim if one can adequately defend that claim. What is more, the norms implicit in our discursive practices make it such that committing to one claim is also committing to various other claims which follow from the original claim. Committing to a certain claim also entitles one to make any and all claims that follow from it. So claiming that P *entitles* one to also claim that Q, whenever P implies Q. Claiming that P also *commits* one to Q, whenever P implies Q. Brandom characterizes

deontic scorekeeping as "the social practices of attributing and acknowledging commitments and entitlements, which implicitly institute those statuses" (1994: xvii).

The role of acknowledgement is crucial here, but it also requires some subtlety. We acknowledge our own commitments (or fail to), and we acknowledge the commitments of others (or fail to). Our acknowledgement patterns do not always match up perfectly. This means that none of us individually has the final say on what generally acknowledged commitments we have undertaken. According to Brandom, one can be committed to something (an act or a proposition) and not recognize or acknowledge that commitment oneself. Here the acknowledgement of others that this commitment has been undertaken often suffices to imbue the commitment with normative force. We can tell that others have acknowledged the commitment by seeing whether they *take* that commitment to have been undertaken, i.e., they hold the subject responsible for undertaking that commitment. In more concrete terms, when someone refuses to acknowledge that they have uttered two contradictory claims, the acknowledgement of all the bystanders in the argument that this has been done can override the denial of that the claims are contradictory.

Nevertheless, the upshot of this claim is that norms would cease to function were they no longer acknowledged. Without acknowledgement (or acceptance, or endorsement), the mechanisms by which norms are reinforced and perpetuated cease to function, and the norm becomes powerless to demand obedience. (Consider a norm of reasoning, e.g., that one ought not make contradictory claims. Yet many people utter contradictory statements and still go unchallenged. This is explained by the fact that there is insufficient accountability in public political discourse.) Perhaps beneficial changes in the acknowledgement of various norms can occur either through normatively significant dialogue about what norms there *ought* to be. In addition to our employing and reinforcing norms through practices of deontic scorekeeping, our evaluations need not stop at the level of assessing behavior according to some particular norm, but may continue on to the level of assessing the norm according to which some behavior is assessed. That is, we rational beings are not only "capable of grasping or understanding the norms, of making assessments of correctness and incorrectness according to them" (Brandom 1994: 32), but we are also capable of grasping or

understanding the norms in such a way as to make normative assessments of the norms themselves, explicit in rules or implicit in practices. Resistance then can be characterized as an explicit challenge to a norm implicit or explicit in practice. Resistance makes the assessment that a particular norm (or set of norms) ought not to be acknowledged, or that a different norm (or set of norms) ought to be acknowledged than those presently acknowledged.

When norms are assessed and deemed to be worthy of guiding our conduct, we acknowledge those norms by acting on them, encouraging or admonishing others to act on them, discouraging people from violating them, responding with hostility to their violation, and so on. This acknowledgement and understanding of given norms is not merely brute acceptance of the norms, however, but always is accompanied by reasons in their favor—reasons which may be challenged and may or may not weather those challenges. As a result of these challenges, the norms are either vindicated or indicted. How we are to evaluate those norms, questions of which norms should be upheld and which should be revised or abandoned will be discussed in Chapter 2 and at length in Chapter 3.

4. Does Everyone Acknowledge the Same Rules in the Same Way?

The vast diversity of human experience—in belief, customs, traditions, governmental systems, cultures, religions, and even social clubs, the negotiation of which occurs both within and between cultures—demonstrates that not everyone acknowledges the same rules and norms, and even among those who appear to acknowledge the same rules and norms, not everyone acknowledges the same rules and norms in the same way or for the same reasons. The implications of this fact on Brandom's account of deontic scorekeeping is the focus of this section.

Here we find another issue that connects Brandom's theory of linguistic social practice to the enterprise of social and political philosophy: How to respond to moral and political disagreement, when these disagreements are about the very foundations of morality or political systems or theories, has been a topic of much discussion throughout the history of philosophy, and has received a great deal of attention in the twentieth century. One can even

trace the path of thought that brings John Rawls from classical liberalism in *A Theory of Justice* to his view in *Political Liberalism* in the way his response to this issue changes over time.[1]

Brandom admits to some idealization in the basic characterization of deontic scorekeeping: "What is described is not our actual practice but an artificial idealization of it," which he means to "serve as the core of a layered account of linguistic practice" (1994: 158). While this idealization undoubtedly simplifies the already complex model of linguistic practices, this idealization may provide one the false impression that Brandom thinks of communities as entirely homogeneous collections of persons, all of whom acknowledge and endorse the same monolithic set or system of norms without variation in kind or degree. Brandom is not committed to this, and we should warn against this interpretation. Nevertheless, recognizing this lack of homogeneity in normative attitudes commits anyone concerned with characterizing the various "layers" of our normative social practices to the project of identifying and disclosing the various ways in which individuals as well as sub-groups within human communities develop and remake normative frameworks.[2]

When Brandom claims to be providing an artificial idealization of our actual practice, I think he means this in the sense that he is attempting to model our use of language. Modeling will involve playing up certain features of our use of language, while admitting that the model is not supposed to cover precisely the same terrain as what is modeled. In modeling, we concern ourselves with the most relevant features of that which we model, and ignore the

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[1] This is what Dreben does in his contribution to *The Cambridge Companion to Rawls*.

[2] A deeper question is whether such an idealization can even serve as the core of an account of linguistic practices. Critics might suggest that any retreat from the detailed and nuanced description of actual attitudes or linguistic practices distorts the foundations out of which an account of linguistic practices might arise. If we start from corrupted foundations, the entire edifice of our theory is likely to falter. To such objections we might counter that it is one thing to set an ideal as a standard, like a metric for argumentation, and another to ignore the fact that most argumentation ignores this standard. In this chapter and elsewhere I will argue that it serves as a metric.

The idea behind this objection is, I believe, similar to the meta-level debate in social and political philosophy with respect to ideal versus non-ideal theorizing (See Charles Mills, "'Ideal Theory' as Ideology," *Hypatia* (2005). However, there the threat of idealization is more clearly politicized: The complaint (which I think valid) is that striking out into ideal theory, where everyone is theorized as free and equal individuals, ignores, distorts, and covers over the very injustices a theory of justice needs to be designed to solve. Moreover, critics often note that those theorizing idealized individuals as free and equal tend to be from the classes who have benefitted from said injustices.

rest. Nevertheless, when Brandom models a rule, he does not, for instance, claim that all of its applications are determined in advance by the model. But this does not mean that we will on that account fail to understand how rules function. As Wittgenstein asks, "are we to say that we do not really attach any meaning to this word, because we are not equipped with rules for every possible application of it?" (*Philosophical Investigations* §80).

Return to my claim that deontic scorekeeping can take place not only at the assessments of performances subject to norms, but also at the assessment of norms according to which performances subject to them are assessed. Work of this kind has already begun. Thomas Fossen (2014b) has described the meta-level processes of deontic scorekeeping as agonal, as a game of giving and asking for reasons in which the standards of excellence are themselves also objects of contestation. At the heart of this outgrowth from Brandom's philosophy is the rejection of Brandom's claim that "The community is incorrigible about what is a proper application of a concept and what is not" (Brandom 1994, 53). Fossen calls attention to the kinds of examples that Brandom uses, including who counts as married within a community, or what counts as a proper greeting for the Kwakiutl. Hart's example of removing one's hat upon entering a church is perhaps in a similar vein (2012 [1961], 55). By drawing our focus more closely to Brandom's examples, Fossen challenges the idea "that some norms are just conventions, such that whatever a community takes to be a norm, is the norm" (2014b; 386). The reason for this is that conventions themselves can be and are often subjected to normative evaluation:

> [Brandom's] remarks [cited above] on social conventions are a bit too simplistic for several reasons. For a start, greeting gestures and who appropriately counts as married are *not* things one cannot intelligibly hold a community to account for. When and whom it is appropriate to greet in what way under certain circumstances can easily become a matter of dispute; greetings are often tailored to positions in a social hierarchy, for example. And the idea that a community cannot intelligibly be taken to be wrong about who appropriately counts as married seems to be invalidated by controversy over [same sex] marriage. Brandom's use of these examples only works on the assumption of a mythically homogeneous community where there is no disagreement on these issues. (Fossen 2014b, 386-7).

Brandom's artificial idealization might be innocent of these charges insofar as it makes no pretense to describe the various actual layers of discursive social practices, but rather only attempts to describe the basis upon which these layers rest: the basic notion that we keep

track of our commitments and entitlements, and hold one another accountable according to these assessments. Still, a full specification of all of the layers of discursive practice will have to adequately characterize how competing normative conceptions coexist within communities who, through their negotiation of normative conceptions among their members, authorize norms, perpetuate them, or strip them of their authority. Experts might be granted the authority to speak for a community, but even that authority is subject to review and reassessment. Just as making a claim commits one discursively to defense of that claim when challenged, so making a claim to expert authority subjects one to critical evaluation and vindication of that expertise when challenged. Whatever the case, we must not forget that communities rarely if ever speak univocally and that within communities there are various perspectives on the norms.

All this might sound too abstract, so I would like to provide a concrete example from the history of logic. When we look at the debates at the turn of the twentieth century about the foundations of logic, we can see the transition of authority as well as practice perspicuously. Consider the shift, marginal at first, from categorical logic to propositional logic to first-order predicate logic, and the gradual adaptation from works of intense insight and complexity into a form capable of being introduced to students just beginning in philosophy. Then consider the shift in attention to modal contexts and multi-valued contexts. What we now know as "classical logic," first-order predicate logic, is the sort of watered-down version of the fragile consensus that was ultimately arrived at as a result of these early debates. Whatever their foundations, certain argument forms are accepted in philosophy, law, and elsewhere to help people clarify their thought.

It is instructive to note that nearly all those engaged in the debates about the foundations of logic emphasize that their work was *not* intended as descriptive, for they were not concerned with the vagaries of how people *actually* thought; they were providing what they considered *laws* of thought in a more straightforwardly normative sense: that they ought to be followed even in cases where they are not actually followed. In this sense logic is a *normative* science. This is also relevant to our discussion, and will be returned to repeatedly. The improvement

of public political discourse when done properly carries out projects of recognition as well as reconciliation.

The hope is that by refining our discourse, we will be able to understand more clearly what is going on, and the differences between what people say and do, and how best to describe their actions. Brandom's account of normativity can be understood as a descriptive account of how norms actually function, but only if we keep in mind that no description lacks normativity. For to undertake to describe something is to commit oneself to speaking the truth of it exactly as one sees it, without engaging in self-deception or one-sidedness.

Let's return to the claim that various perspectives on the norms of a community render suspect some generalizations about attitudes concerning those norms (e.g. as arising from shared conceptions of the good or of justice). In order to explicate this, we need to provide more support for two related claims: (1) that it is reasonable to suppose there is a variety of attitudes concerning the norms of any given community within that community itself; (2) that recognizing this variety requires inspecting the normative practices of one's own community more closely than is allowed in an analysis which stops at the level of actual standing practice.[3]

How do these various perspectives on the norms of a community arise? If Brandom is right, then wherever there is something resembling what can be called a 'community,' there is some level of agreement and adherence regarding which norms are acknowledged or recognized in a community. That much seems true enough. Yet norms can also work to set up positions of social advantage and disadvantage, which means that not everyone experiences the norms of their community in the same way, or even as deserving of support or adherence. Discourse is a means with which people can express their disapproval of these ways of being socially placed, thus providing discursive normative challenges to norms which privilege the voices of some at the expense of others. How discursive norms are related to other (legal, moral) norms in force (meaning: those norms which are for the most part adhered to) will be

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[3] These two claims are defended at length throughout Chapter 2, although the second claim is a theme of the dissertation that will continually be explored.

explored throughout this work. Various perspectives on the norms arise because norms themselves unevenly distribute privileges and responsibilities. This uneven distribution can be mediated, balanced and possibly even rectified through authoritative public political discourse which recognizes the right to speak of all those affected and afflicted by the norms presently enforced.[4]

We must also be careful in interpreting what it means to 'acknowledge' a norm. To recognize or acknowledge a norm is not the same as to endorse it. Understanding that such-and-such *is* the law is not the same as believing such-and-such *ought* to be the law. That is, I want to say that someone can recognize *that* in some community or other (including one's own) such-and-such is acknowledged as a norm, without oneself endorsing that norm. As in, "The church considers extra-marital sex morally wrong and a grave sin, but I think it is not a sin, and that the norms surrounding sex should center on consent and safety."

But what if a member of the church itself had this attitude? While some (particularly church "authorities") might be tempted to think that this person is simply in error about what the role of church doctrine should be in her life, or that she should just join a different church if she feels this way, we must remember that these kinds of discussions do in fact happen. Controversy frequently arises among and within certain sects of Christianity regarding whether women are or ought to be allowed to be priests, or whether priests can marry, whom they can marry, whose weddings they can officiate, and so on. Martin Luther was not initially trying to create a distinct sect of Christianity; he was trying only to reform the Catholic church from within. Not every rejection of a communal norm is intended (nor should each be taken) as a surrender or repudiation of one's status as a community member. This means that even within communities who *recognize* the same norms or sources of authority, there are varying attitudes about the direction the community is taking and what direction it ought to take.

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[4] See Benhabib (2002), esp. pp. 19-20; 35-6.

With all these varying normative attitudes, how are the community standards set? In the idealized model Brandom first articulates, the normative attitudes more or less converge on a certain set of norms acknowledged and more or less endorsed by all members of a community. But a more layered model of course brings in the variation in attitudes with respect to norms acknowledged by those taken to be subject to them, of which endorsement is but one. Unthinking acceptance, compliance under protest, and outright rejection are others.

Fossen claims that "The crux is to focus not on the relation between the individual and the community, but on the differences of social perspective between participants engaged in discursive practice" (Fossen 2014b, 380). Norms set up and perpetuate social positions and social hierarchies, and people from these differing social positions will form different perspectives on whether and how the norms of their community are beneficial or deleterious. However, the expression of approval or disapproval is couched in descriptive terms which are themselves subject to normative evaluation. Negotiation of norms, then, is still governed by discursive norms whenever they are upheld in a community.

At the same time, in order to be conversing at all, we have to be able to converse about the same things. To be engaged in discursive practice requires identifying common subjects of discourse. While there are differences of social perspective regarding the norms, in order to be talking about the same norms at all, there must already be acknowledgement of the norms under discussion. And we must hold one another accountable in our discourse itself. In order for the conversation to be *about* the norms, there have to be norms *about which* people are having a conversation. The issue of social perspective will be crucial in our discussion of the negotiation of normative conceptions that takes place within communities.

This section has posed some questions regarding the interpretation of Brandom's conception of deontic scorekeeping. We have pointed out that his model, while appealing to examples of communities, leaves out just what it is that makes a community a community; that is, how should we be interpreting the term 'community?' For instance, how much divergence of normative conceptions is possible within the same community? If we cannot delineate

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communities cleanly by their adherence to a monolithic system of acknowledged and accepted norms, then how shall we? It cannot be a matter of "how much" adherence to norms there is in a society, for then we would face a variation of the gerrymandering objection. We would have to have decided whom to count as members of a society before determining how much adherence to norms there was in that already gerrymandered society.

Does Brandom mean to be suggesting that after all there is just one community of linguistic practitioners as such—say, humans—idealized away from the variegated communities in which we increasingly live, with their various competing normative conceptions? If so, what is the unifying factor of the human community? Is it possible that within a community there can coexist various interpretations of what the proper norms are or ought to be? Is it possible to utilize idealizing models without distorting beyond recognition the phenomena we are attempting to model?

What demonstrates the necessity of this kind of questioning is that our normative evaluations do not stop at the evaluation of one another's behavior according to whatever norms happen to appear relevant to that behavior at the time, that is, whatever norms are acknowledged and endorsed by experts of our community or otherwise treated as authoritative. We also normatively evaluate the norms that others attempt to impose on us, the norms by which others live their lives, and if we are wise enough, the norms by which we live our own lives.

The fact that our discourse includes the evaluation of what norms we ought to institute, endorse, and perpetuate, is not due to a defect in our normative attitudes, as though we childishly refuse to accept how things must really be, but in fact underscores the seriousness of the investigation of what norms ought to be given respect. History has, time and again, taught us the importance of such questions as: By what right do you impose this rule upon us? What is its institution meant to accomplish? Should we accomplish that? If we institute this rule, will it accomplish that?

5. Because We Take Norms Seriously We Demand (Or Ought to Demand) That They Be Justified

At least part of our normative attitudes is one of seriousness with respect to the norms which we consider most important. Some rules are clearly more important than others and as a result we take those rules much more seriously. This seriousness is part of the way that norms function to reinforce themselves. This idea, which can be traced at least as far back as Wittgenstein, is also articulated by Hart. As we will see, Brandom makes similar claims along these lines. So far we have only traced a general conception of norms and rules, avoiding the particulars of laws and moral obligations. Hart, in distinguishing rules of etiquette or correct speech from more serious rules that are taken to impose obligations, provides a perfect summary of our discussion of rules generally so far:

> [Rules generally] are more than convergent habits or regularities of behaviour; they are taught and efforts are made to maintain them; they are used in criticizing our own and other people's behaviour in the characteristic normative vocabulary. (2012 [1961], 86)

In addition to having these general features, rules that impose obligations have further significance attached: "Rules are spoken of as imposing obligations when the general demand for conformity is insistent and the social pressure brought to bear upon those who deviate or threaten to deviate is great" (2012 [1961], 86). This insistence is tied to the idea that maintenance of the social order requires compliance to these obligations. So far I have attributed to Hart two claims: first, that rules which impose obligations are distinguished from other kinds of rules by the amount of seriousness with which social sanctions are applied; second, that this same seriousness is tied to the belief that these obligations somehow underlie the social order itself.[1]

If the obligations imposed within a social order are understood to be closely tied to the maintenance of that social order, is it reasonable to suppose, conversely, that the social order is created and maintained by the obligations that are imposed within it? Hart seems not to

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[1] This idea has potential for recasting our thinking about the the differences in social orders that arise according to where and how a distinction is maintained between the so-called 'public' and 'private' spheres. I owe this observation to Asha Bhandary.

comment on this, but I argue for answering in the affirmative. Various aspects of this idea warrant consideration, but first, we need to avoid a possible misinterpretation. When we say that an obligation "is imposed," we are using the passive voice. Who or what does the imposition? Since we have already argued, following Brandom, that rules function by virtue of their acknowledgement, then it seems we are committed to saying that the individuals for whom the obligations are binding impose these obligations on themselves. But this would be too quick. Individuals for whom the obligations are binding also impose obligations on one another. Not just that, but individuals do not have the final say as to what their obligations are, not only because they already find themselves obligated to many other individuals and performances, but also because they are held to account by other individuals according to norms acknowledged by those other individuals. For all that, there nevertheless are obligations that one reflectively and consciously takes up. Joining a particular society or occupying a certain office, for instance, sometimes requires taking explicit oaths spelled out in explicit terms, in the taking of which one who takes them signals official acceptance and endorsement of those terms and is thus obligated to them.

In addition, people who live in cities, states, and nations find it useful and believe it necessary to impose general laws which apply to all the people within these borders. This provides a stability of expectations about the actions the people will take and the actions the city, state or nation will take. One of Hart's major contributions in *The Concept of Law* is his recognition that laws are a matter of rules, but not rules understood merely as injunctions and commands; a proper account of laws must include rules about rules, including those for introducing new rules, for changing existing rules, and for repealing existing rules. Without systems of rules about rules, Hart claims that any random grouping of such injunctions and commands will not form a system. Societies without rules about rules, claims Hart, will be faced with uncertainty about what the rules require, will have difficulties changing the rules as quickly as may prove necessary, and will have trouble effectively deciding when violations have occurred and what is to be done about them. Rules for the introduction, clarification, or disposal of rules provide the opportunity for self-reflection about the rules. They provide a

means with which we can adjust the rules to changing needs and self-understandings of those to whom the rules apply.

The rules we endorse matter to us. This is why we react with hostility to their violation, and why we attempt to explain their value to others when questioned about it. If we understand our more serious rules as underwriting the order and stability of our society, then we are forced to recognize that much is at stake. Since much is at stake, it stands to reason that there should be mechanisms through which we can offer and evaluate proposals as to what rules we will follow; that is, rules must be taken seriously enough that we allow them to be viewed from a critical perspective. If rules matter because the stakes are high, then those high stakes require a close and engaged look at what the stakes of *lacking* justification for our rules would be. Precisely because the rules we endorse matter to us, we demand or ought to demand that they be justified.

One might object that a critical stance toward rules or a system of rules to which one finds oneself subject undermines their status as rules. Part of what it is for something to be a rule, one might say, is precisely that it is *not* up to me what my obligations are or ought to be. If we allow rules to be questioned whenever their application appears inconvenient to us, then they would cease to function as, and thus cease to be, rules. So we require some way to arrive at authoritative pronouncements about the rules. At least two ways to proceed now open up before us. We could argue that the way to arrive at authoritative pronouncements is to discover, say, through processes of introspection or historical inquiry, the foundations of morality, and use these discoveries to inform our reactions to the pronouncements of those who attempt to claim authority, and that those who claim authority have that right to claim it only insofar as and to the extent that their pronouncements coincide or cohere with our philosophical theoretical discoveries about the foundations of morality.

Or we could recognize that those who attempt to claim authority have the responsibility to vindicate those claims to authority when appropriately challenged. Not all conditions are such that a challenge to authority is called for, but neither are all claims to authority equal in truth or justice. It is possible that such claims are less frequently justified than we may at first

think. Only justified authority deserves recognition, but there may be ancillary reasons not to disobey a particular illegitimate 'authority' in a particular case, for instance if doing so harms no one or if it is better for now to keep quiet in preparing for larger resistance maneuvers.

When an authority is appropriately challenged, there is still the potential for the authority to vindicate itself against this challenge. To vindicate a claim is to weather a challenge, demonstrate competence, be responsive to suggestions for alteration. In short, showing and proving that one's authority is worthy of recognition. In this latter case, the vindication of authority succeeds to the extent that it weathers these challenges and achieves general acknowledgement. The achievement of general acknowledgement, without endorsement, however, places that authority right back into question. Violent repression as a response to challenges, rather than engagement in dialogue with challengers, does not exactly help the case of would-be authorities. Although some coercion can perhaps be justified, who is morally justified in coercing whom, is not always to be decided by who has institutional power over whom. However, not all challenges to authority are legitimate, just as not all claims to authority are legitimate. There are also times and places where challenging authority is misguided, as when quick decisions must be made by experienced and competent authorities.

One upshot of arguing that authority incurs the responsibility to vindicate claims (both made *as an* authority as well as the claim *to be* an authority) is that acknowledging *that* an authority is accepted (say, officially or otherwise by others) is not the same as endorsing that authority oneself. What matters is not only *that* certain norms and rules are acknowledged but also *how* they are acknowledged. We can recognize that such-and-such is the law of the land while also criticizing that law. We can recognize that there are norms implicit in a certain practice, and make those norms explicit in order to challenge them rather than ratify them. We can recognize that so-and-so is treated as an authority with respect to certain issues while demanding reasons for deferring to that authority, or while demanding vindication of particular claims made by that authority. Our attitudes about the importance of norms applies not only to the seriousness with which we take norms once endorsed, but also to the seriousness with which we take our right to demand justification for norms in the first place.

This applies not only to the norms we want to put into place, but also includes our attitudes against the norms we want to put to rest: norms that cannot withstand critical scrutiny are norms that fail to garner the respect necessary to give rise to obedience. Our rejection of norms that fail to withstand critical scrutiny is part and parcel of our practices of deontic scorekeeping: norms that fail to be justified might receive acknowledgement and yet be lacking in recognition of their legitimacy. Rather, recognition of their *illegitimacy*, as unfit to guide conduct, is demonstrated by such failures.

It is important to note that the thrust of this discussion is itself normative, in that the demand for justification (i.e. the assessment) of the norms by which one is assessed in one's interactions with others is not something that occurs in all cases or even in most cases. In this sense the discussion relating the importance of norms with demands for their vindication is not meant primarily as descriptive, although we will certainly find cases where norms are disputed. The discussion relating the importance of norms with the demand for their vindication is meant as normative itself, in that it amounts to a call for assessing the norms by which one is assessed and by which one assesses. Hart's lessons about the need for mechanisms of self-reflection and modification for laws applies across all characteristically normative domains, including not only mathematics and grammar (where this discussion arises in Brandom) but politics and morality as well.

If "what the rules themselves ought to be" is subject to assessment, and if the social order is created and maintained by the rules that are imposed and enforced within it, then, in asking what the rules themselves ought to be, we are asking questions about what the social order ought to be. We know that there are various different kinds of social order, and that experiments in different social orders have taken place throughout human history. Each of these social orders has its distinctive patterns of acknowledgement for authority, as well as its own unique tools for maintenance.[2]

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[2] This fact has lead some to suggest that social orders, world-views, or paradigms are incommensurable. Yet any discourse that suggests that historical epohcs and social orders are incommensurable has in so doing already identified distinctions among social orders, which raises the quesiton of how these distinct incommensurable (and thus incomprehensible) social orders come to be recognized on such a view. The issue of comparing distinct social orders will be explored further in Chapter 2. For more on this see Davidson (1973). "On the Very Idea of a

As has been noted, norms can be recognized by how insistent the demands for conformity are. The variation of social orders that history demonstrates that whatever social orders that have arisen over time are contingent and do not conform to a pre-established pattern susceptible of being sufficiently generalized. Yet when attempting to justify their authority, many social orders appeal to claims of necessity. Social orders and moral systems seldom arise without some sort of narrative that is intended to establish their authority. This authority is usually understood to be universal because grounded in necessary truths. Moral laws handed down by prophets who received them from divine sources is one example of such a narrative. In modern times, disputes about different economic social orders being encoded into law take place through appeal to supposedly necessary truths about human nature with respect to preferences and dispositions. We know that previous moral theories whose purported justifications of practices which we do not recognize as legitimate today such as slavery or the oppression and exploitation of women too claimed authority on the basis of their corresponding accounts of human nature, whether "religious" or "scientific" in tone. Advances in our moral landscape, then, could not take place until these beliefs about the "necessary truths" of human nature or morality were uprooted, discredited, and abandoned. However, whenever there are effective narratives underwriting social orders or moral landscapes through claims of necessity regarding human nature, they can be extremely difficult to uproot. Now, claims to necessity should be the easiest to refute: all that should be required is a single counterexample. Unfortunately, when a moral system and its founding narrative are regarded as "natural," a complementary concept arises, "unnatural," and what is unnatural, rather than uprooting the necessity claim, instead merely becomes subject to punishment.[3] Thus what should be taken as counterexamples to false views about necessity are instead taken as "unnatural" deviations worthy of punishment. Peeling back these layers of rationalization is a pain-staking process, but one that is required if we are to gain any

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Conceptual Scheme." *Proceedings and Addresses of the American Philosophical Association*, Vol. 47. Our discussion of this issue in Chapter 2 is heavily indebted to Seyla Benhabib (2002). *The Claims of Culture: Equality and Diversity in the Global Era*. Princeton University Press: Princeton, NJ.

[3] This point is also developed in Hans Sluga (2014), *Politics and the Search for the Common Good*. Cambridge University Press: Cambridge.

recognition of the possibility that our founding narratives could be false, and thus enter into genuine dialogue about the merits of particular social orders or proposed social orders.

This series of observations has two main implications: (a) the norms we institute are contingently determined, and do not always reflect the best possible arrangements we can create; (b) their being contingently determined makes them no less important, but instead underscores the importance of working them out well. Consistency in the application of norms is intimately tied with our intended use of these norms: If we say that all humans are created equal and thus no unequal treatment can be morally justified, then we had better actually treat everyone as equals. Naturally, what it means to treat everyone as equals is no easy question to answer. I suggest that we might gain some traction here by suggesting that treating everyone as equals requires holding everyone equally accountable. Not everyone pays prices for their misdeeds, and many people pay substantial prices for morally justified infractions of institutionalized norms. Rather than saying, therefore, that we should 'treat everyone equally', which is somewhat ambiguous, I argue that we should hold everyone equally accountable to one another. Sometimes reinforcing a norm is the best way to do that; at other times, dismantling a norm is the best way to do that.

In addition to demands for justification, another stance individuals can take toward norms effective in their community is one of direct opposition, in cases where they feel these to be unjustified. In such cases, some of the norms within the community are subjected to evaluation on the basis of other norms within the community, which are taken to be equally as or more important. For instance, the Civil Rights movement appealed to universal human dignity as condemning the practices of segregation and voter suppression in the South. So it is not as though the assessments of norms always come from some kind of outsider perspective, but can do and often arise from within the community itself. Since the attempt to systematize rules often results in inconsistencies, norms within systems such as universal human dignity can be reaffirmed even as they are being employed in order to expunge norms that erode that dignity, in both those who are denied it as well as in those who deny it to others. In cases where a norm of egalitarian reciprocity based on universal human dignity is

not upheld, this norm can be appealed to in order to challenge those norms contrary to universal human dignity which underwrite such cases.

This section has attempted to advance the claim that the assessment of the norms by which we are assessed and by which we assess ourselves and others is a positive result rather than a perversion of our normative attitudes. The seriousness with which we take norms demands that these norms be justified when subjected to challenge. For there to be room for discussion, no assumption of unanimity in moral perspective is necessary. The negotiation of these moral perspectives can only take place if there exists a diversity of attitudes with respect to the norms generally acknowledged by the community. The idea that we are still in the process of discovering what norms are best to follow poses a challenge to the notion that morality as a system can be worked out completely and in advance.

6. What Makes a Community a Community?

Our discussion so far has attempted to establish the following claims: that the overlap in normative vocabulary between theories of social practices and theories of law and morality is significant enough that a parallel investigation of how normative vocabulary functions in both domains is warranted; that norms are reducible neither to complete systems of explicit rules nor to regularities in behavior; that rules function as they do because we acknowledge them; that although norms in a community are generally recognized and acknowledged, not everyone acknowledges the same rules in the same way; and that because we take norms seriously we demand or ought to demand that they be justified.

However, our talk of "the norms of the community" will remain unclear so long as we do not have an adequate grasp of what makes a community what it is. Specifically, we need to determine how we can conceptualize the norms of a community in such a way that (a) they are generally recognized and acknowledged, and (b) nevertheless attitudes vary considerably regarding the legitimacy of the norms generally recognized and acknowledged.

What has been said so far excludes the possibility of conceptualizing communities as groups of individuals with homogeneous normative conceptions and homogeneous normative

attitudes. If we were to conceptualize communities in that way, we could not account for any of the following: varying normative attitudes within communities, being held subject to norms that one personally rejects, or changes in normative conceptions that occur over time. We have already discussed the troubles of varying normative attitudes and being held subject to norms that one personally rejects. The problem of change arises because once we concretize social wholes according to complete normative systems, then how those normative systems are modified or changed becomes problematic: Why should any normative system change, and how can it change without some kind of metanormative discussion?

So we cannot think of communities as groups of people all of whom endorse, act upon, and attempt to enforce a particular complete system of norms. Nevertheless, we are also forced to recognize that without some generally recognized and acknowledged norms, the designation of 'community', at least as it is applied to humans, might be inappropriate. What sorts of concerns unite a community? What sorts of norms should be in place for the negotiation of normative conceptions?

One way in which we can account for generally recognized and acknowledged norms while preserving space for varying attitudes is by following the implications of the claim that the social order is created and maintained by the obligations it imposes. These obligations are not distributed evenly; communities are arranged so that different persons undertake different obligations, and the social order is reflected in its distribution of obligations and permissions. Social orders, then, also create and maintain social positions.[4] Persons in these different social positions will, by virtue of experiencing their social order differently, thus come to have differing perspectives on their social order and the obligations through which it is underwritten.

Thus, rather than define communities according to intersections in normative attitudes and normative conceptions, we should define communities according to norms generally

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[4] This position is articulated in Walker (1998) and is the subject of Chapter 3.

recognized and acknowledged, where this recognition and acknowledgement does not necessarily amount to endorsement. At times even Brandom seems to acknowledge this:

> Being a member of a community is rather being one who *ought* to conform to the norms implicit in the practices of the community. Community membership has this normative significance; it is a normative status. (1994, 39)

Whenever one is treated as if one ought to conform to the norms implicit in the practices of the community, one has already acquired the status of community membership. One does not relinquish that membership in virtue of failing to adhere to those norms, nor in openly criticizing and attempting to change them. Nevertheless, breaches of the norms of the community can be expected to be met with hostility, or with demands for explanation. But the demand for justification, as previously noted, does not only go in the direction of those obligated, but also in the direction of those attempting to enforce obligations. Any claim to authority implicitly invokes standards for its own evaluation. Reflexivity and reciprocity are thus built into the ground floor of normativity.

The view of community to be endorsed here can be contrasted with views of community in the sense employed by Kripke (1982) and Wright (1980), according to which the community is the final arbiter of meaning and truth and thus it is impossible that the community as a whole could be wrong about its interpretation of the rules. In addition to the regress of interpretations that such views generate, they rule out the possibility of the entire community being incorrect about the proper application of a rule or what the rules ought to be. Discussions about the proper scope and uses of logic, and thus which logical rules are needed for particular applications, still arise. All the same, these kinds of high-level negotiations, such as discussions about the foundations of logic, presuppose some means of finding common ground and evaluating suggestions.

Without some sort of space for normative conversations about social practices, it is difficult to see how one can claim that communities in which e.g. slavery was officially sanctioned ought not to have sanctioned it, and were incorrect in their belief that it is morally permissible to own other human beings and force them to labor for one without adequate compensation. The possibility of the entire community being incorrect about the normative

conception reflected in its generally recognized and acknowledged norms should be retained. This conception of the community demolishes that possibility and in so doing demonstrates its inadequacy. While it attempts to focus on the most basic notions of fixing meaning, this fixing of meaning also serves to define who is a group member and entitled to protection and who is not, and need not be protected. While this might not be the case with mathematical addition, it is certainly the case with concepts like "citizen."

Similarly, the view of community to be endorsed here can also be contrasted with views of community in the sense employed by communitarians such as Stephen Wall (2015). According to these views, one failure of the modern era is its unfortunate overemphasis on the isolated individual. This notion of the individual is thought to be problematic for several reasons. First, individuals form and modify their identities only through their interactions with persons in a community, so the thought of an isolated individual assessing communal norms already involves one in hopeless confusions. Second, focusing on individuals too narrowly might encourage individuals to make up their own rules, thus undermining the stability of society when everyone takes to making up their own rules. Third, the emphasis on individuality downplays significant relationships and can have the tendency to rationalize selfishness and ignorance of the importance of our obligations to one another.

While I find myself rather sympathetic with this critique of individualism, I am much less sympathetic to the solutions offered by communitarians. The communitarian solution is to suggest that it is simply not up to individuals to decide which rules are worthy of their obedience; that the stability of the community is imperiled by any and all threats of deviance; that the preservation of cultural practices and traditions is intrinsically valuable, and thus can override the evaluations individuals make of their own traditions and practices. As Kymlicka (1995) points out, conceiving communities as groups with homogeneous normative conceptions fails to account for how the term 'community' can apply to anything like a multi-cultural nation.

> Communitarians typically talk about our attachment to subnational groups—churches, neighbourhoods, family, unions, etc.—rather than to the larger society which encompasses these subgroups… Communitarians are looking for groups which are defined by a shared conception of the good (1995, 92).

Charles Taylor (1994) is careful on this point. He only suggests that we treat communities (understood as non-problematically individuated) as *prima facie* valuable, subject to further evaluation. However, there is still a problem, even with these examples. Even within these communities, the opportunity to challenge and revise the social positions that a particular social order generates must be retained; some unions exhibit structural sexism or bleed their members dry to cover their financial malfeasance. "To inhibit people from questioning their inherited social roles can condemn them to unsatisfying, even oppressive, lives" (Kymlicka 1995, 92). Moreover, even within very tightly controlled communities, normative attitudes do not always converge. Uma Narayan (2002) has pointed out that in discussions about the practice of veiling, Western feminists have a tendency to reduce the attitudes of Other women who are compelled to veil to two specters: the prisoner of patriarchy and the dupe of patriarchy. This "imperialism of the imagination" imagines the prisoner as resentfully resigned at her complete lack of freedom and power to do otherwise, and the dupe as convinced that the repressive norms that apply to her are justified and worthy of obedience. Her actual discussions with Pirzada women reveals much more nuance with respect to these practices than one of resentful forced compliance or uncritical endorsement.

> Attending to the varied responses of real Other women, responses that are often critical of certain aspects of patriarchal cultural practices, even as they endorse or collude with others, enables us to see that most Other women differ from both the prisoner and the dupe of patriarchy, and to recognize that perhaps the most important form of 'sameness' these 'Other women' share with 'Us' is the wide variation in their responses to 'patriarchal practices' in their context (2002, 419).

Narayan here is warning us away from the imperialism of the imagination, but her point about the wide variation in attitudes about the norms to which one recognizes oneself as subject also serves the point developed here. This variation in attitudes undermines many communitarian claims even in the more restricted scope of one's specific religious community. This means that even if we so restrict the scope of communitarian claim to neighborhood associations or local churches, it still fails to account for the fact that within communities there is variation in attitudes about the norms even when generally recognized and acknowledged.

This final section is intended, not to settle the question of what makes a community a community, but to raise it. I have only provided a glimpse of the ways of conceptualizing communities that I will be arguing against in the following chapter. For now it will suffice if the reader is perplexed about how to conceptualize communities as (a) groups of individuals who generally recognize and acknowledge the same rough set of norms (b) while their attitudes toward these norms vary considerably. The next chapter is dedicated to working out such a conceptualization.

Chapter 2 The Boundaries of Community

1. The Implications of Normative Challenges for the Concept 'Community'

The last chapter ended by arguing that, within a community, norms can operate in actual standing practice, yet be the subject of challenge from within the community where these very norms operate. This is similar to Seyla Benhabib's claim that "We should view human cultures as constant creations, recreations, and negotiations of imaginary boundaries between "we" and the 'other(s)'" (2006, 8). Thus, conversations about how to properly apply norms, and conversations about which norms ought to be applied, must be conceptualized as taking place within communities. The approach to the concept of community I take in this chapter conceptualizes conversations such as these as constitutive of community.[1] Recognizing this requires spelling out how we can conceive of community without forgetting about the variety of voices in these conversations. I will argue that through these conversations, norms are not only enforced, but also challenged, modified, and sometimes even abandoned. I believe this approach to the concept of community is superior to approaches that locate community in common conceptions of the good, cultures, regularities in behavior, regularities in normative assessments of behavior, or even aggregates of implicit normative attitudes expressed in normative assessments of behavior (though this last will require most of the arguments in this chapter to establish).

In many ways, norms structure our daily activities. We have various 'ways of doing' things, ways that are expected of us, in the sense that these are 'how one does things'.[2] Take tax returns, for instance. Depending on the kind of work a person does, there is a different form, and there are specialists whose work consists of assisting one in following and to the extent possible, exploiting all of the complex rules of the tax system of any nation that has one. Of

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[1] The most direct theoretical ancestors here are Benhabib (community as conversation) and Nancy (community as communication without unity). In what follows I draw on both of these approaches.

[2] For an interesting discussion of 'ways of doing things,' see De Certeau, *The Practice of Everyday Life*, Steven Rendall, trans. For an interesting discussion of 'how one does things', see Dreyfus, *Being-in-the-World*.

course, not all of the rules of a society or group of people are explicit. Many of them are implicit and must be understood in context, which sometimes requires the ability to pick up on subtle nonverbal cues, as well as skills in listening and understanding different perspectives. But this also means that clashes among (explicit and implicit) rules and standards are likely, and frequently occur. When this happens, rules and norms can be tested from within the practices they make possible.[3]

One means through which a norm might be challenged would be to test the consistency of its application.[4] A norm might also be challenged by more directly questioning the legitimacy of the norm itself, as when particular laws are challenged by public acts of civil disobedience. Although a person might be critical of certain norms of standing practice, that person might nevertheless act according to the standing practice, either as a show of good faith and respect for one's community and its norms, or that person might violate the norm in order to highlight certain features of it (e.g., reasons for thinking it is illegitimate or its application inconsistent).

When people who fail or refuse to act according to a norm or set of norms, they sometimes offer justifications for these violations. When they offer justifications for their actions, they can either challenge the legitimacy of the norm(s) violated or the consistency of application of norms. Another question might arise as to what the best interpretation of a norm is, or whether the case in question is subject to the norm in question.[5] A person might also take up

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[3] Cf. Walker, *Moral Understandings* (68): "There are formats of moral deliberation and argument that give recognized ways to enter reasons and to weigh, elaborate, or disqualify them, such as generalization arguments, reversibility tests, appeals to empathy, consequences, consistency, self-respect, and more…These resources give people a common starting place for mutual accounting, but the resources can be renegotiated and their acceptability disputed within the very practices they make possible." See also 64ff.

[4] I am thinking here about inconsistency in saying everyone is born free in a society where many people are born slaves, or in the idea of free and equal protection under the law, while police too often shoot and kill citizens (especially people of color) and fail to receive punishment because they claim to have been afraid for their lives, or between crack and cocaine sentencing, or between the ratio of white people to black people who consume marijuana compared to the ratio of white people to black people locked up for marijuana-related offenses. Questions about which cases are "alike" when we speak of treating like cases alike are often unasked and unanswered.

[5] I thank David Stern for reminding me of this point.

two norms of standing practice, and evaluate their mutual consistency.[6] These norms of standing practice can be explicit or implicit, and making norms explicit is consistent with criticizing those norms.

Norms are related not only to rules but also standards, both in the sense of upholding certain standards and in the sense of defining 'standard' procedures. In this sense, it is interesting to consider that we also speak of one's 'standard of living'. Which standards of living are possible, for whom and how many, are also determined by dynamic systems of rules and practices. While Brandom would not be happy with the blending of these various senses of 'standard', taking in the phenomena widely at first may prove useful. Some standards need to be in place, for instance, safety standards at workplaces (a hard-fought won by workers' organizations in the twentieth century, which stands threatened presently). Standards of recognition for, say, academic experience and competence, serve a much-needed heuristic purpose. Certifications provide a stand-in for evaluations that would otherwise take significant cognitive effort.[7] Looking at the various uses of 'standard', I cannot fail to notice that when we speak of standards, we are not always doing so with approval. We speak of magazines setting unrealistic standards for beauty, being unimpressed with 'standard' arguments for certain positions, and we sometimes tell people their standards for themselves and others are too high. Criticizing norms (or sets of standards) is a matter of questioning their justification.

Justification is a two way street. Those challenging norms must also provide justifications, that is, their grounds for challenging those norms and standards which they challenge. And if the practice or norm is to be defended, it must be done justifiably. Many standards develop over time through engagement in the activities we pursue. When we codify some standard, we believe it is because we have found good reasons for using that standard to measure

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[6] Benhabib, for instance highlights tensions between "equal protection under the law" and "cultural defense strategies" in the United States. See (2002: 86ff). This is also one way of understanding some aspects of the 1960s era civil rights movement: identifying latent tensions between segregation laws and equal protection under the law, guaranteed by the constitution.

[7] I owe this example to Carrie Figdor, who presented her paper "The Psychology of Trust and the Epistemology of Testimony," November 2017 to the University of Iowa Philosophy Department.

whatever it is we are measuring with that standard. When we challenge one, it is because we recognize problems with the standard. The more justification for modifying or acting against the norms of standing practice gains in general acknowledgement, the more questionable appear presumptions in favor of continuing to act according to the norms of standing practice, and so the more justification ought to be demanded for continuing to act according to the norms of standing practice.

Norms operate in such a way that people can expect one another to go on with some activity in more or less the same way. In that 'more or less,' however, lurks a deeper question about what we mean when we talk of going on in the 'same' way. Similarities and dissimilarities are examinable and require interpretation on case-by-case bases, but sameness is a matter of standards, which require standardization.[8] Following Brandom and others, I have argued that questions about what it means to go on in the same way are best understood by examining similarity in application rather than identity in mental content. These questions are also irreducibly normative, and they are not settled by answers involving only mental states, or what people regularly do, but by the recognition that one has in fact gone on in the same way, which is expressed in the normative attitudes implicit in practice, attitudes revealed in assessments of performances. In the assessments one makes of others and of oneself, and in the assessments others make of one and of themselves, we find the material for constructing the narrative of a person or a relationship. I also believe that temporally extended histories (e.g. of cultures or traditions) are constructed through patterns of signification that include such assessments.

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[8] For instance, the standard meter. Metrics and standardization in mathematics require consistency because of the things we do with them, but that is its own dissertation. Morality requires consistency not only because of what we do or fail to do with it, but for reasons which are explored in Chapter 3 of this dissertation. Standardization when it comes to policy however can lead to generalizations about groups of people that ignore the conversations we argue here are constitutive of community, and create social groups which may or may not form communities of the kind we argue are constituted by these kinds of conversations. It is also worth mentioning that the issue of going on in the same way, as it arises in Brandom, is part of a conversation going back to Wittgenstein, but Brandom's discussion is framed to a large extent by standardization in mathematics, grammar, and modeling, etc, rather than culture. But Wittgenstein's own interests, it should be noted, also include the effects of standardization in culture that operate to ground activities. This work is intended to draw out some of the implications of Wittgenstein's idea that some standardizations are useful and necessary, and others unnecessary and troublesome.

Many perspectives will compete in these narratives, and in any particular set of relationships, these perspectives so to speak combine to become what Brandom calls a deontic status. I want to argue that in addition to particular persons, entities with temporally extended histories (e.g. cultures or traditions) also acquire a certain deontic status. For individuals, Brandom argues, membership in a community is one such normative status. Competent speakers can be considered members of a linguistic community.[9] One has passed a certain normative threshold when one is known as a competent speaker, and yet another if one becomes known as an eloquent speaker. In addition to the generic normative status of being a community member, the deontic status of a particular person depends upon patterns of attribution and acknowledgement. One attributes and is attributed competence in tracking commitments and entitlements, competence in carrying out assigned tasks and acknowledging responsibilities, and one acknowledges the competence of others in similar ways. Incompetence is also sometimes recognized, and has its own deontic status. But of course we can also make mistakes in our recognition of competence and incompetence. We can fail to recognize the competence of a person, or fail to recognize a person's incompetence, as when people are sometimes taken in by confidence men. We can also fail to recognize that a person, while incompetent in some things, might be quite competent in other things.[10] This means that an account of mutual recognition of the competence in oneself and others must be compatible with sometimes misrecognizing that competence or incompetence.

The practice of deontic scorekeeping also provides an explanation of how patterns of acknowledgement and attribution combine to constitute structures of authority, but also

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[9] Note the indefinite article. We are members of *a* linguistic community (for instance, those who speak English, or Farsi, or Urdu, or Swahili), not *the* linguistic community, if any such singular and fully general thing exists. This means that polyglots can be members of various linguistic communities at once. Note also that to be a competent speaker, one need not be a native speaker. Even eloquent speakers need not be native speakers, and native speakers can range from eloquent to barely competent. This will have important implications for the discussion of conversation as constitutive of community.

[10] Here I have in mind the differently abled, who are often ascribed some form or other of global incompetence, undermining their self-determination even in those areas over which they can be quite competently self-determining, and should be given the social space to exercise that competence. I thank Alison Coombs for helping me recognize this point.

provides the conceptual tools for demanding better from authority before it is acknowledged. I believe that authority requires (at a bare minimum) competence, and that it should be respected and obeyed only once that competence is demonstrated to those over whom the authority is to be exercised. However, I also recognize that people can be misled into mistaking incompetence for competence, which raises the stakes of maintaining and improving our critical skills of evaluation, while also highlighting the need for opening our conversations to create a wider community. This will only work if we are willing to be held accountable, and willing to hold one another accountable. If we fail, then the worst of us will not be held accountable, while the best of us are mistreated by the worst of us.

This chapter is dedicated to working out a conception of community not only consistent with the existence of a variety of attitudes about the norms of standing practice in one's community, but according to which this variety of attitudes is to be expected. Normative challenges take as wide a variety of forms as do language-games, for normative challenges themselves are part of our language-games. This means that normative challenges occur in a wide variety of circumstances and take a wide variety of forms. Nevertheless, we also need our account of community to be consistent with the claims that (1) within a community the norms are generally recognized and acknowledged, and (2) nevertheless attitudes may vary considerably regarding the legitimacy of those norms generally recognized and acknowledged.

By locating a spectrum of potential attitudes one might take up toward the norms of one's community—a spectrum that ranges from acknowledgement and endorsement to repudiation and rejection—we can provide ample space for the disputation of norms whose operation is at present causally efficacious but whose legitimacy is nevertheless questionable. The motivation for providing an account of community consistent with the possibility and actuality of resistance within communities is that only in this way will we be capable of accounting for new community formation and normative change. Normative theories of social practice need to be capable of accounting for change as well as stability. We know that normative change happens. New norms come to be adhered to, implicitly or explicitly, as new situations arise, new information comes to light, and modifying the norms to fit these

new understandings is generally acknowledged as necessary and desirable. Disruption can be a source of incremental change in cases where extraordinary crises of confidence in old structures of authority do not mandate total upheaval and abandonment. There are (at least) three reasons it is important to understand the operation of incremental normative change. First, it is important to understand when the price of stability is too costly: when authorities or traditions only maintain their power through coercion, manipulation, violence, silencing victims of oppression, or by the complacent silence of the privileged in the face of known oppression.[11] Second, it is important to understand what can be done when problems of the first kind arise, that is, how to change the normative situation for the better. Finally, understanding the operation of incremental normative change can hopefully make it possible to avoid extraordinary crises that require total upheaval.

When we assess performances according to norms, we are not always also assessing the norms themselves. When we perform algebra according to rules, for instance, we are not likely to challenge the very idea of variables standing in for unknown quantities, or that what is done to one side of an equation must be done to the other side to preserve the correctness of the equation. Although sometimes fundamental developments in mathematics are made by removing a rule (as the popular example of Non-Euclidian geometry shows), such changes are not made routinely. The same does not appear to be true with respect to moral codes or laws, because here there is far more disagreement about what the rules ought to be. There is often confusion about social norms because many of them are implicit. The ability to understand subtle social cues is a skill that takes time, practice, and learning from mistakes as well as successes to master.

An account of resistance to social norms from within a normative framework would be incomplete without a discussion of resistance to authority. For norms, in being acknowledged, are treated as authoritative. They are viewed as having or claiming a right to guide our conduct. At a minimum they provide us reasons for action. Additionally, people whose prerogative it is to interpret and implement institutional rules are called "authorities."

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[11] Cf. Walker, Chapter 1 of *Moral Understandings*

Authorities are also called upon to solve problems. Thoreau, on the subject of the authority of government, says "I will cheerfully obey those who know and can do better than I, and in many things those who neither know nor can do so well (1849: 230)." For short I will call this the 'greater competence claim to authority'. To unpack this claim, consider first those who know and can do better. A mathematics instructor is an authority with respect to mathematics, and this in virtue of knowing mathematics better than I, and being better at mathematics than I am. But that same mathematics teacher may lack authority when it comes to behavioral management or conflict management. In the best case, the teacher has authority in all of these areas: they not only know better but consistently show better, and are successful at showing me how to be better at mathematics. If authority is based on the demonstration of greater competence, then it stands to reason that manifest and persistent incompetence or malice may suffice as conditions under which authority is with justification called into question.

If that is true, then the second half of Thoreau's claim may appear puzzling. Why should one follow those who neither know nor can do better in anything, let alone many things? There may be cases where authorities who mean well and often do well slip up and do badly on occasion, but if this happens only occasionally, that may be insufficient grounds for calling into question those who claim authority. When authorities mean well and do well, there does not appear to be any need whatsoever for authority claims into question. Of course, what it means for an authority to mean well and do well will have to be understood as requiring input from people with various perspectives within a community. From the perspective of a minority, authorities may appear to both mean harm and do harm. These claims need to be taken seriously, and if sincere, are often sufficient grounds for calling authority into question. For more on this understanding of authority as performative competence, see Chapter 4, Sections 3 and 4.

Another reason for investigating normative dispute and change within communities is to provide encouragement for the withdrawal of acknowledgement from illegitimate norms and illegitimate authorities. Here we point to the challenges and crises in contemporary "sources of authority" and operating norms as potentials for transformation. In this context we see the

project of transformative justice as contributing to the kinds of normative change badly needed in a world that covers over and distorts historical injustice with a thin white sheet of pretended universalism used as a mask to uphold the institutional structures that perpetuate those very injustices. In addition to understanding how times of crisis for structures of authority can lead to normative change, we should also pay attention to how everyday practices can produce subtle normative shifts that also provide the potential for transformation. Once we have defended the need to provide conceptual space for normative change, we can investigate the role that nonviolent resistance might have in bringing about that change. Perspectives within communities vary, and in negotiating these perspectives, standards for community practices come to be and pass away.

Brandom's conception of community is consistent with a wide variation in attitudes about the structure, history and meaning of the community, but is nevertheless incomplete. The main issue with Brandom's conception is that he pays insufficient attention to mechanisms of normative change. By extending Brandom's focus on attribution and acknowledgement beyond (supposedly morally and politically neutral) linguistic practices, we come to see how attributions and acknowledgements of commitments and entitlements create, maintain and perpetuate the existence of social roles and social positioning, structure patterns of authority, disproportionately distribute privileges and responsibilities,[12] and provide for the questionable ascription of traits and attributes to people through (often false, and usually exaggerated) narratives of social group membership.[13] By underscoring the causal efficacy of acknowledgement, we can investigate the causal efficacy of a withdrawal of acknowledgement.[14] The gap between attribution and acknowledgement then becomes the space through which community, and one's place within it, can be questioned.

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[12] More on this in Chapter 3. Cf. Walker.

[13] See Meyers *Gender in the Mirror* and Taylor *Multiculturalism and Toleration*.

[14] Brandom: "What is causally efficacious (for instance in action and perception) is the attitude of *acknowledging* a commitment." (1994: 596) Unpacking this is one of the goals of this chapter.

This will necessitate a brief discussion of the relation of self and community. According to the accounts to which I am most sympathetic, self and community (members) stand in a dialogical relation of definition, identification, and determination that takes place in negotiations of and struggles for mutual recognition. Put slightly differently, self-understanding is the socially constructed result of attributions and acknowledgements of commitments and entitlements, mechanisms of social positioning and the effect of socially constructed narratives about identity. To be socially constructed is to have a certain kind of causal efficacy.[15] When we say 'socially constructed' we are not denying the individual person any say in the construction of one's own identity, either. We individuals are social creatures, and being social, we take some part in shaping the narratives of our own identity. In the words of Charles Taylor, "We define our identity always in dialogue with, sometimes in struggle against, the things our significant others want to see in us" (1994: 33). This account of the dialogical construction of self and community (members) will also be connected with the attribution/ascription of group membership, both as a matter of self-definition and identification and as a matter of being 'socially placed' by others or institutions. At the institutional level we can see social grouping as a means of social control.[16] The connections between ascriptions of social group membership, and between tradition and oppression, then, must be explored.

I aim to develop an account of community consistent with the following: resistance to communal authorities from within those communities; the withdrawal of acknowledgement from illegitimate authority; the potential of normative transformation through crisis, breakdown, and even everyday practice; and the formation as well as transformation of moral, personal, and political identity. Recognizing the multitude of voices within every community will have profound implications on how we understand the concept of community. As we will see, we are not entitled to speak of any such thing as '*the* perspective of *the* community' as such. There is no such thing as 'the' unique community perspective;

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[15] For more on this, see this dissertation, p. 121

[16] Ann Cudd, *Analyzing Oppression*

within the community, there will be different social locations, and perspectives will vary as a result of this positioning. This does not mean that no perspectives are privileged or authoritative, but that questions about which perspectives ought to count as authoritative is itself a difficult social and political question Authority is not self-justified, but is instead an investment in trust and respect. Trust and respect are built up over time, but can also be lost when they are abused. I want to suggest that something similar is true for the concept of authority. I do not mean to suggest that it is not difficult to adjudicate what constitutes a breach of trust, respect, or authority in every case. I only mean to suggest that the operations of the maintenance or loss of trust and respect may also be true for authority. Although we will be arguing for an understanding of community that does not locate community in nation-states, worldviews, conceptions of the good, or religions, we still must account for the fact that as humans we live with other humans, cohabitate in houses, neighborhoods, villages, cities, states, and nations, and participate in various social forms including cultural traditions and religions. And while these forms of life have profound impacts on our own understanding of ourselves, they are all also still open to ongoing interpretation. Encouraging a more critical interpretation of these forms of life is one of the aims of this chapter.

2. What is Attributed to Individuals and What is Acknowledged By Individuals?

Let us briefly revisit how attribution and acknowledgement function in Brandom's normative account of discursive practices. That which is attributed and acknowledged are commitments and entitlements. That to which one is committed might outstrip that to which one acknowledges oneself to be committed. This is because others attribute to one commitments, and one might not acknowledge all of the commitments attributed to one. Brandom calls the practices of attributing and acknowledging commitments and entitlements 'deontic scorekeeping.' Deontic scorekeeping is a process through which we keep track of our own commitments and entitlements as well as those of others.

The practices of attribution and acknowledgement as Brandom understands them are best explored (and challenged) through his example of taking the Queen's shilling. In eighteenth century England, taking the queen's shilling was a means of enlisting in the military. Yet

those taking the Queen's shilling were not always made aware of the significance of taking it. This is a striking example of how the commitments attributed to one can outstrip the commitments one explicitly acknowledges, but it also opens the door for a more searching questioning of the normative operations in play.

> The official rationale was that some such irrevocable nonlinguistic performance was required to do duty for signing a contract, given that those enlisting were largely illiterate. The actual function of the practice was to enable 'recruiting' by disguised officers, who frequented taverns and offered what was, unbeknownst to their victims, the queen's shilling, as a gesture of goodwill to those who had drunk up all of their own money. Those who accepted found out the significance of what they had done—the commitment they had undertaken, and so the alteration of their status—only upon awakening from the resulting stupor. (Brandom 1994: 162)

There are several aspects of this example worthy of comment. First, notice the gap between the "official rationale" and the "actual function of the practice." Whenever there is a gap between an official rationale and the actual function of a practice, suspicions should arise. This is because an official rationale might be acceptable, while the actual function of a practice, were it to be widely known and understood, would be unacceptable. In this case it is the gap between the official rationale and the actual function of the practice means the difference between enlisting in the military of one's own volition and being kidnapped and conscripted to work. The difference is one of freedom: Freely enlisting is quite different from forced conscription. Brandom's choice of the term 'victim' is also revealing. When a commitment is freely undertaken, we rarely speak of the person undertaking that commitment as a 'victim' because they have undertaken it (though there are important exceptions). The victim of the actual function of the practice of taking the Queen's shilling might only acknowledge that he had been kidnapped, and reject all attributions of having enlisted of his own free will. In identifying a gap between attribution and acknowledgement, we can begin to see a much more volatile fissure: the gap between genuine normative authority and the abuse of power masquerading as legitimate authority. I must admit a great deal of sympathy with Robert Pippin's assessment of Brandom's use of the Queen's shilling as an example of how the commitments attributed to one can outstrip those one acknowledges:

> I think most of us would say intuitively that the fact that others attributed such a commitment to an individual that did not mean that that individual was, in normative fact, truly so committed, that the practice counted something as a commitment illegitimately, that it does not qualify as a commitment. But for Brandom, to undertake a commitment is *just* for an individual to do something that makes it appropriate for others to attribute a commitment to that individual, where 'appropriate' is a matter of actual standing practice. (Pippin 2005: 395)[17]

I agree with Pippin that there are troubles with understanding 'appropriate' simply as a matter of actual standing practice. First of all, actual standing practice is not neutral, morally or politically. In order to understand 'appropriate' as a matter of actual standing practice, questions of the legitimacy of the practice as a whole have to be bracketed. But bracketing questions of the legitimacy of a practice requires sometimes ignoring cases where the presumed legitimacy of a practice has serious moral and political implications, as is so in the case of the unwitting taker of the Queen's shilling. As I argued in the previous chapter, there is a range of attitudes between grudging acknowledgement and ringing endorsement. Knowing what we know about the case of the Queen's shilling enables us to provide normatively driven critique of this normatively governed practice. Evaluating behavior, as I have stressed, does not stop at deciding whether it conforms to the norms of actual standing practice. One's actions might conform to the norms of actual standing practice and still be worthy of criticism from the perspective of a normative evaluation of the norms of actual standing practice itself. Pippin finds it ironic that "What Hegel takes as deeply problematic is counted by Brandom as a wholly unproblematic example of attributing commitments" (*ibid*).

Brandom does acknowledge a gap between what *is* attributed and acknowledged and what *ought* to be attributed and acknowledged, but he cashes it out in terms of individuals with different perspectives of who has committed to what, and who has what entitlements. From these invariably individual and irreducibly finite and limited perspectives, individuals negotiate with each other to form and alter their more particular normative conceptions. However, as Pippin notes, talk of 'negotiation' of normative attitudes is perhaps too weak to

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[17] Cf. Brandom (1994: 162)

capture the kinds of struggles that bring about significant and lasting normative change.[18] In the case of the taker of the Queen's shilling, the change in physical location has much to do with the perceived 'irrevocability' of status. Yet were that sailor to convince enough of his fellow sailors that there was no legitimacy in their having been kidnapped, a mutiny might arise, thus irrevocably altering the status of all of the members of the ship, including the (now erstwhile) captain. This means that the 'irrevocability' of status-changes is not absolute. But of course a mutiny is not a negotiation, but a *struggle*.[19] Negotiation, but also struggle, can arise when a gap is acknowledged between what is attributed and acknowledged in actual practice and questions of the propriety of those attributions and acknowledgements themselves. If a standing practice can be identified, and there remains a question as to whether that standing practice ought to stand, then there is a crisis in (or at least a challenge to) the authority of that practice.

Interestingly, the authority of an institution or a set of practices, once challenged, cannot succeed in justifying itself in virtue of the fact that it is presently and will in future be enforced, for the propriety of so doing is precisely what is at issue. In other words, in the question of whether an institution or system of practices is maintained mainly through coercion, manipulation, deception, violence, the silencing of voices or the silence of the privileged, or whether it operates mainly through mutually recognized and mutually willed cooperation, the guiding assumption of that conversation is that the latter is more or less legitimate—but still subject to review—whereas the former is in every case illegitimate. Thus authority cannot seek to legitimize itself through enforcement mechanisms which, through

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[18] In his "Letter from a Birmingham Jail," Martin Luther King, Jr. argues that when negotiations fail, people must bring that tension to the surface through nonviolent direct action so as to force negotiations. See esp. p. 75: "Nonviolent direct action seeks to create such a crisis and establish such creative tension that a community that has constantly refused to negotiate is forced to confront the issue. It seeks to dramatize the issue that it can no longer be ignored." in H. A. Bedau (ed), *Civil Disobedience: Theory and Practice* etc

[19] Again, see Pippin (2005: 398). Cf. King's talk of crisis and tension as necessary for bringing out negotiations when negotiations have failed. See also http://www.openculture.com/2015/02/how-martin-luther-king-jr-used-hegel-to-overturn-segregation-in-america.html

their use in the maintenance of the institution, demonstrate the illegitimacy of the putative authority of that institution or system of practices itself.[20]

To ask for obedience is ultimately to claim competence in directing the actions of others toward some end which has been generally acknowledged as worthy of pursuit. If that end has not been generally acknowledged as worthy of pursuit, or reasonable questions arise about the competence of a putative authority in directing the actions of others toward that end (whether or not the end of those actions is acknowledged as worthy of pursuit), then it seems to me that the onus is on the one who asks for obedience. I also must emphasize the term 'ask.' Let no one demand obedience. Requests for obedience should be grounded in justifications of the propriety of the acts commanded. There may not always be sufficient time for questioning authority, and there may not always be sufficient grounds for the questioning of authority, but this does not rule out the possibility that there are often insufficient grounds for obeying socially recognized authorities, and that time spent questioning and disobeying illegitimate authority is time well spent in disrupting the plans of illegitimate authority.

Parental authority is worthy of consideration in this context. Not every parent knows what is best for themselves or their children. But in terms of moral competence, many (probably most, but not all) parents are in a far better position to know what is good for themselves and their children than are young children. At the time when children become morally competent, however, that moral competence equips them with the skills to question the beliefs and practices of their parents. Over time, the moral competence of children, as they mature into adults, can equal or exceed the moral competence of their parents. At this point

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[20] This argument will be a major theme in Chapter 3, following Walker. One might object that the provision for questioning putative authority in a normative theory gives rise to regresses of various sorts, for instance, of questioning the authority of one who questions authority to question that authority, or questioning the standards by which the one who questions authority evaluates the response. One who objects thus is looking for a regress-stopper, an ultimate moral justification. But the regress-stopper cannot be grounded in a mere conceptual mandate. In practice we do not argue the merits of our actions endlessly, nor do we always ground them in a theoretic network of beliefs stemming from a well-articulated conception of the good. Our practical needs force us to act, and so, through the judgment of people who are evaluating one another's actions, reactions, responses, answers, questions, and understanding, the regress does not occur. Still, we need to know where the buck stops, or rather, where it ought to stop.

moral competence requires that good reasons be given for continuing the practices of their parents, reasons which in turn can be further questioned by morally competent offspring. Moral competence is frustrated when practices are reinforced simply by coercion. Of course, children as well as parents can go wrong in their assessments of who knows better. Parental authority, like all authority, depends on having better reasons, and these reasons being acknowledged by those subject to authority.

But everything is far more complicated than the last paragraph may suggest. When such questions arise about who knows and can do better, they are not easily settled.[21] In general, how do we recognize who has greater moral competence in a particular situation? Frankly, I do not know how to settle them. But I believe that there are reasonably clear cases of authoritative incompetence, misuse of state and other official authority, abuses of privilege, and the like. These cases provide reasons for calling someone's authority into question, and many such calls deserve investigation. And if it turns out that much of the authority that has been granted in the past has been misused, then we should proceed very carefully before acknowledging potential authorities, and look very carefully at allegations that authority has been abused in a particular case. Not all challenges to authority are equally worthy of recognition, but many should be seriously investigated.

This example shows that patterns of acknowledgement, while structuring authority at any particular given time, are nevertheless fluid. It also shows that the acknowledgement of authority can shift as morally competent discourse raises legitimate challenges to previously acknowledged authority. Some people grow up to know better than their parents, and move beyond them in terms of moral competence. And this does not constitute a deterioration of society but rather its improvement.

In other words, the burden of justification, it seems to me, should rest on those who would command the obedience of others, more than it is on those who would resist to justify their resistance. Note that this is a reversal of the classical position on civil disobedience, which is

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[21] Thanks to David Stern and Asha Bhandary for pressing me to further explore the complexity of the issue.

conceived as prima facie unjustified until proven otherwise. I argue instead that authority is not prima facie justified in most cases, although there are possible exceptions. This is not to say that those who engage in civil disobedience need not or should not provide reasons. Indeed, their reasons often serve to reshape moral and political discourse in ways that bring about normative change. Justifications of civil disobedience appeal to public sentiment, and seek to shape and to change it. Here the following words of Abraham Lincoln seem relevant.

> In this and like communities, public sentiment is everything. With public sentiment, nothing can fail; without it nothing can succeed. Consequently he who moulds public sentiment goes deeper than he who enacts statutes or pronounces decisions. He makes statutes and decisions possible or impossible to be executed.[22]

My intent here is not to argue that people who engage in civil disobedience need not seek to justify their actions to the wider public. Rather, my intent is to reverse a trend in political philosophy of overemphasizing presumptive moral obligations to obey authority, while underemphasizing presumptive moral obligations on the part of authority to explain and justify itself. Reversing this trend is intended to license widespread demands for the justification of putative authority and the outright rejection of it when it is found to be illegitimate. Ruling should never be easy for the rulers.

Although we will argue for the need to retain conceptual (and physical) space for challenging actual standing practices, and therefore move somewhat beyond Brandom, still it will be useful to see how Brandom's understanding of community has some attractive features. We will not necessarily put his conception of community to use in the way that he would, but in a way consistent with what he has said. First, we need to clear the conceptual air. As we saw in the first chapter, Brandom is opposed to what he calls 'regularism,' according to which regularity of communal assessments settles questions about the propriety of particular performances. The trouble with such views is their inability to show how they can select assessments that supposedly come from the perspective of the entire community. Brandom calls this critique the 'gerrymandering objection.' Brandom develops his critique by focusing

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[22] Quoted on p. 60 by Harris Wofford, Jr. "Non-Violence and the Law: the Law Needs Help" in H. A. Bedau (ed), *Civil Disobedience: Theory and Practice*, etc.

on the differentiations in normative perspective that obtain between participants in the game of giving and asking for reasons. Since each person has a unique range of personal experiences arising from differences in background conditions, opportunities and capabilities, each person will form a distinct perspective on what is expected and what can be expected from others. Our engagements with others calibrate and direct those normative perspectives.

The upshot of this is that in order to pick out 'the' view of 'the community', it is required that there be some generic and fully authoritative community perspective, some privileged perspective of the community as a whole. Recall that the reason regularist theories moved toward a privileged community perspective is their need to ground objectivity, once we have rejected the appeal to non-perspectival facts, such as appeals to some kind or other of mind-independent reality, which exists as it is regardless of what we think. However, Brandom argues that not only does this kind of move fail, it is not necessary to make in the first place.

> In fact, however, understanding what is expressed by assessments of the objective correctness of applications of concepts requires appeal neither to nonperspectival facts (= true propositional contents) nor to community-wide commitments to propositional contents. Rather, the distinction between claims or applications of concepts that are objectively correct and those that are merely taken to be correct is a structural feature of each scorekeeping perspective. (Brandom 1994: 595)

By making objectivity a structural feature of the practice of assessing, attributing, and acknowledging commitments and entitlements, we can avoid the problem of reifying a community and treating 'communities'—how are they to be picked out?—as though they speak univocally with support of all (or even most) of their members. The account of intersubjectivity that grounds claims to objectivity in Brandom he calls *I-thou* intersubjectivity, and he opposes it to intersubjectivity understood in what he calls the *I-we* fashion. Brandom continues:

> *I-we* accounts mistakenly postulate the existence of a *privileged* perspective—that of the 'we', or community. The objective correctness of claims (their truth) and of the application of concepts is identified with what is endorsed by that privileged point of view. The identification of objectivity with intersubjectivity so understood is defective in that it cannot find room for the possibility of error regarding that privileged perspective; what the community *takes* to be correct *is* correct. The community, it may be said, is *globally* privileged. (Brandom 1994: 599)

In addition to gerrymandering troubles that arise when trying to find this globally privileged perspective, there is the more damning criticism that even if we pretend there is a globally privileged perspective, that leaves no room for the conceptual possibility of an entire community, so to speak, getting things wrong. But this possibility must be recognized: "even if all of us agree and always will agree that the mass of the universe is small enough that it will go on expanding forever, the possibility remains that we are all wrong, that there is sufficient matter undetected by us to make it collapse gravitationally" (Brandom 1994: 594). More poignantly, suppose those who pretend that climate change is a hoax were actually able to convince large swaths of the population that this is the case. This would not alter the facts about climate change at all. In fact it would more likely lead to further disruption, instability, and disaster, since action to counteract its deadly effects would not be taken in time to prevent numerous catastrophes. For whatever reason, those interested in denying climate change seem entirely uninterested in the facts, and do not appear to be persuaded by the facts when presented with them. This alone should cripple their credibility, but this will not happen unless people stop taking them seriously. I fear this may only happen once it is too late to reverse the effects of climate change.

The last example points to the relationship between what we take to be true and how we act. If no one believes that climate change is happening rapidly and is the result of human activity, then people will not be convinced that they have to change their habits and practices in order to counteract the effects of climate change. Although there is no privileged perspective of the community, consensus can nevertheless be reached through the interaction of people who are holding one another to standards of accountability.[23] However, even in the absence of consensus, facts remain facts. Perhaps the most dangerous of all political ideologies are those which deny the need to respond to evidence, or refuse to acknowledge the inferential relations between assertions; those which essentially have no concern for the truth. Nevertheless, we need our account of community to explore the implications of

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[23] When I attended a lecture by Patrisse Cullors, one of the founders of the Black Lives Matter movement (Englert Theater, Iowa City, February 6th, 2017), she repeatedly returned to the importance of holding one another accountable. The importance of this cannot be overemphasized, and I emphatically agree with her assessment.

patterns of acknowledgement (and failures to acknowledge) and discover this means for the concept of community. Before we can get into that, however, we need to look into the role that attribution and acknowledgement play in the formation of self-understanding. By understanding how we are formed by social forces, we can begin to understand how to transform ourselves and ultimately even transform our normative situations by changing our own practices of attribution and acknowledgement.

3. Self and Community: Formation and Transformation[24]

The last section was devoted to two aims: First, we pointed out that Brandom is, so to speak, too descriptive and insufficiently normative in his account of how commitments and entitlements (and their attendant responsibilities and privileges) are attributed to and acknowledged by individuals. Second, we pointed out that nevertheless Brandom has good reason to reject the necessity of positing a privileged community perspective.

This section will argue for a dialogical account of the relation between self and community (members), following Charles Taylor, and for a skills-based account of voice authentication, following Diana Meyers, in order to bring out the ways in which our interactions with others in our lives who are some significance to us have shaped and continue to shape the way we understand ourselves and imagine our possibilities, both personally and socially, and how these can understandings can be transformed. Self-knowledge is brought about by significant relationships. These relationships are better characterized as 'I-Thou' relationships than as 'I-we' relationships (that is, relationships with other particular people, rather than a relation between individual selves and the community or the state). By developing the skills needed for voice authentication, I can ensure that when I speak, I speak well, and in my own voice, rather than internalizing and repeating stereotypical narratives. This will also improve the overall quality of dialectic in my community, for rather than identifying with only those who are like-minded, I do not unintentionally elect to join only the tribe of the like-minded.

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[24] The phrasing 'formation and transformation' is from Pippin in "Brandom's Hegel."

Both Taylor and Meyers begin by noticing the profound impact that socialization has on us as individuals. The narratives we are told about ourselves, about what we are told are our histories, our cultures, our classes, our genders, and those which we later come to tell ourselves, shape our self-definition and self-identification. Whereas Taylor's focus is on how socialization provides horizons within which we can come to make sense of our world and our social relations, Meyers' focus is on the fact that the narratives through which individuals are constructed and construct themselves are neither neutral nor innocent. These narratives, Meyers argues, play and replay social structures of identification and ascription (Meyers 1994: 6ff). They function to place people in their social roles, for better or worse.

Taylor and Meyers would agree that how we come to identify ourselves, is only partly of our making. For Taylor, who and what we are is defined not merely by us, but also by those with whom we interact and socialize. In other words, we do not get to fully decide every aspect about who we are, because 'significant others' first define us, and later come to know us, influence us, and react to us. It is important here that in the phrase 'significant others', the term 'significant' is meant to cover anyone who is significant to us, not merely our romantic relationship partners (though romantic relationship partners are of no small significance in shaping our self-understanding).[25] Family, teachers, mentors, friends, and those who exercise power over one, also count as significant others in this expanded sense.

The process of finding out who we are, of finding our place in the world, then, is socially mediated to a degree that Taylor argues has been insufficiently recognized or accounted for in the modern period, where narratives of the rugged individual and the attendant notion of self-definition as kind of inner monologue predominate.[26] As a rejoinder to this way of understanding ourselves, Taylor refocuses our attention on the notion of recognition, which he adapts from Hegel and Isaiah Berlin. Taylor states that "A number of strands in contemporary politics turn on the need, sometimes the demand, for *recognition*" (1994:

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[25] See Joel Anderson and Axel Honneth, "Autonomy, Vulnerability, Recognition, and Jusitce" in J. Anderson and J. Christman (eds), *Autonomy and the Challenges to Liberalism*, pp. 127-149. Cambridge University Press: Cambridge. 2005, esp. 135ff.

[26] See Taylor, *Multiculturalism*, p. 32ff.

25).[27] The desire for recognition takes a variety of forms, because it plays out in intimate relationships as well as in the wider social spaces we occupy in going about our daily business.

Understanding the way this desire for recognition plays itself out, according to Taylor, provides sufficient reason for reconsidering and ultimately rejecting projects in political philosophy which begin with the isolated individual deciding for oneself, in the complete absence of input from outside oneself, who exactly one is, and only later 'electing' to 'join' society on the balance of reasons.[28] Taylor's analogy is that between a monologue and a dialogue. Rather than understanding ourselves as the product of our own inner monologue, Taylor recommends refocusing on the ways in which we react to and incorporate narratives about ourselves from significant others.[29] He reminds us that "We define our identity always in dialogue with, sometimes in struggle against, the things our significant others want to see in us" (1994: 33). This has impacts both on a personal level, in our interactions with family, friends, and associations, as well as on a societal level, where we are ascribed group membership on the basis of the ongoing historical narratives, struggles and negotiations between social groups, societies, nations, religions, and cultures about who they are, what they stand for, and why certain institutions should (or should not) be upheld and continued. On the personal level, a lack of recognition from parents, friends, and others can have deleterious effects on a person's self-worth. Constantly being told that one is not good

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[27] Cf. Berlin (1969: 22ff, esp. 23): "What oppressed classes or nationalities, as a rule, demand is neither simply unhampered liberty of action for their members, nor, above everything, equality of social or economic opportunity, still less assignment of a place in a frictionless, organic State devised by the rational lawgiver. What they want, as often as not, is simply recognition (of their class or nation, or colour or race) as an independent source of human activity, as an entity with a will of its own, intending to act in accordance with it (whether it is good or legitimate, or not), and not to be ruled, educated, guided, with however light a hand, as being not quite fully human, and therefore not quite fully free." The relationship between freedom and recognition is also a major theme in Hegel's *Phenomenology of Spirit*.

[28] Although Rawls acknowledges the profound impact our 'starting points' have on us, Taylor would likely say that Rawls nevertheless focuses too exclusively on individually oriented instrumental reasoning, thus Rawls does not sufficiently take into account how much our social relationships mean to us, and what we would be willing to give up in order to keep these social relations strong.

[29] This is striking in connection with King's conclusion that "Too long has out beloved Southland been bogged down in the tragic attempt to live in monologue rather than dialogue." p. 75, "Letter from a Birmingham Jail" in H. A. Bedua (ed), *Civil Disobedience: Theory and Practice*.

enough, or beautiful enough, or smart enough, or self-sufficient enough, can have a tremendously negative impact on a person when that person begins to believe these narratives. According to Taylor, these images of oneself can become 'internalized' and then turn into self-fulfilling prophecies.[30] It is one thing to hold one another accountable according to norms and another to demean, demoralize, and 'misrecognize' someone. For this reason, Taylor argues, the denial of mutual recognition can constitute a positive harm.[31] Personal growth can often be stifled by manifestations of this lack of recognition, even in the form of implicit bias by well-meaning friends and teachers. If my practices as a teacher were called into question by a student from a marginalized group, it would seem irresponsible of me to proclaim that I too fight against the injustices that concern her. For while I might mean well, I may do less well than I mean. When this happens it is well within the rights of my students to point this out to me, and my response should be open, genuine and vulnerable, rather than a bare assertion of my alliance with the very student who has come to me with concerns about my own practice. Rather than get defensive, it would better suit my role as a teacher to get collaborative on potential solutions to the conflict, reached in agreement with the student who is attempting to help me grow as a person.

In addition to our personal relationships, we are also ascribed membership in social groups, and these ascriptions in turn strongly influence (though need not fully determine) our self-understandings. The latter, macro-social aspect of the social mediation of our self-understanding has a great impact on how we come to identify and define ourselves. Social institutions, whether religious, cultural, or governmental, result in the identification of social groups (both of 'we' and 'others'), and do not always give to people from those identified groups mutual recognition and respect. Once social grouping has taken place, the struggle for recognition continues at the macro-social level as well as at the micro-interpersonal level (although these two levels should be understood as interacting with and influencing one another). In particular, the wide distribution of demeaning narratives about social groups can

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[30] Taylor (1994: 25-6); cf. Meyers (2002: 4-5).

[31] Taylor (1994: 64-5).

come to have a negative impact on the self-worth of persons who are ascribed membership in that social group or who self-identify as members of that social group.[32] Indeed, even someone who is insignificant to us on a personal level (in the sense of being essentially strangers about whom we know nothing) can *become* significant if they interfere with our lives by projecting demeaning images of ourselves back to us. Many of these social groupings are arbitrary from a universal perspective according to which we are all simply human beings, struggling to find meaning in a world into which we are thrown without having chosen to be here, who struggle with the choices with which we are faced. Nevertheless, the historical result of these arbitrary social groupings must be recognized as a fact, and their effects dealt with.[33]

Meyers' focus on feminine socialization shows ways that young girls are trained to follow cultural models, and that these cultural models can discourage the development of one's own voice to speak to one's own experience. Meyers compares these cultural templates to noise that must be filtered out so that individuals can come to recognize the validity of their own experiences and trust their own voice. But this also requires developing agentic skills:

> Self-determination, I argue, is best understood as an ongoing process of exercising a repertoire of agentic skills—skills that enable individuals to construct their own self-portraits and self-narratives and that thereby enable them to take charge of their lives. (Meyers 2002: 5)

One of Meyers' concerns is how self-awareness and self-determination can survive even in environments hostile to their development. This means that patterns of recognition shape individuals' perception of themselves, but not in such a way that underestimates the contribution of individuals to their own life narrative. Meyers argues that the development of

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[32] These two 'levels' are articulated on p. 37.

[33] As James Baldwin reminds us, "Not everything that is faced can be changed, but nothing can be changed until it is faced." The ways in which history is paved over, forgotten, ignored, or distorted are intentional and unintentional ways in which social and political injustices continue unabated: Where problems are not recognized, there is no effort to solve them. Therefore, challenging, deconstructing, and dismantling the narratives through which nations sweep their unsavory bits under the rug to maintain loyalty and power is one of the most important forms of resistance. Making people aware of the problems is an important first step in attempts to correct them. Examples include Zinn, *A People's History of the United States*, and Brown, *Bury My Heart at Wounded Knee*.

agentic skills aids self-determination and the authentication of voice. Let us remind ourselves of the basic thesis of this dialogical account of the self:

> The thesis is that our identity is partly shaped by recognition or its absence, often by the *mis*recognition of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves (Taylor 1994: 25).

One thing I think worthy of highlighting here is the use of figurative speech: words such as 'mirror' and 'picture' evoke the concept of imagery (and by proxy, imagination). Also interesting is the fact that both of these media, mirrors and pictures, are media through which we can come to see ourselves from a different perspective than our usual orientation to the world, from which we see arms and legs, chest and so on, as, so to speak, jutting out from our personal perspective; that is, looking at ourselves without mirrors, we see only the means with which we manipulate the objects in the world. In typing this I see not my own reflection, not my entire body, but rather my hands manipulating a keyboard; I do not 'see myself' (in my reflection) unless my reflection happens to come through the glare of the screen on my computer, and this image, too, is incomplete. When we look into a mirror, however, or a photograph (an image) of ourselves, we stand before ourselves, and in a sense outside ourselves. Although we recognize ourselves, we may not necessarily see ourselves as others see us. We might say that in order to get a fuller picture, we process input we obtain from others, from various perspectives. Self-reflection and self-recognition, therefore, requires the mediation of others, and this need for mediation in turn requires recognizing others.[34] However, in recognizing this process, and building on this analogy, it is important to recall that mirrors and pictures always represent some particular perspective, and those perspectives are not always in the best position to see, and do not always reflect properly. This is not to claim that genuine self-reflection is impossible, or that others are incapable of mirroring back to us images of ourselves that are more or less accurate. It is just to remind us that we can aggrandize ourselves and others, and also belittle ourselves and others.

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[34] For a detailed treatment in developmental psychology of the interaction between self- and other-recognition (in a more strictly visual sense), see Asendorpf et al, (1996): "Self-recognition and other-recognition."

I believe that Taylor's point that language shapes horizons of meaning is well taken. As an example of this, I want to explore some connections that obtain between concepts in German which, because they do not translate particularly well in English, will instead be explained in the next few paragraphs.

Although in English the concept of an image or a figure is not directly connected with the concept of a model for something, in German a direct connection is readily apparent. The German term 'Bild' can be variously translated as 'photograph', 'image', 'picture', 'model', 'figure' (in a technical sense), 'symbol', 'pattern', 'illustration' (both technical and non-technical), and 'drawing'. For my discussion the most salient connotations of 'Bild' will be figure, model, symbol, pattern, and image.[35] This term covers an area so general that in English it might better be understood as the figurative, figuration, modeling, pattern-construction and -recognition, and imagining. The German words formed with 'Bild' as a root are similarly variable, but I will focus on only a few here. I want to focus on this because the relationship of models for behavior and self-conception interact with one another in interesting ways.

'Bild' is the root of the term 'Bildung'. Like the root from which it comes, 'Bildung' has multiple meanings: 'education', 'creation', 'generation', 'cultivation', 'literacy', and 'formation'. It is most commonly associated with a cultivated liberal arts education, and its past participle, 'gebildet', means 'cultured', 'erudite', 'refined', 'intellectual'. The notion of 'Bildung' as formation—the formation of how one understands oneself—is most plainly seen in the literary form of the Bildungsroman, whose function was (is) both to describe the coming-of-age from youth into adulthood and through this device to normatively direct it. Returning to the root term, we can also think of 'Bild' as 'model' in connection with 'Bildung'. A Bildung (an education) provides one with a model for developing a sense of who one is, where one came from, and what it is possible for one to achieve. We often speak in English of model students, model citizens, and so on. When we do so, we are invariably

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[35] In Wittgenstein's *Tractatus*, 'Bild' is a key concept, so much so that the *Tractatus* is frequently attributed a 'picture [or model] theory of meaning'.

appealing to concepts with normative import, speaking of what is proper (or ideal) for students, and for citizens, to be and to do. When we think of these aspects of our social atmosphere, we have to recognize that we are enmeshed in this social atmosphere, and we do not stand outside of it. Our significant others have a tremendous impact on the genesis of our self-understanding (they provide us our 'Bildung'). As Taylor says, "The genesis of the human mind is in this sense not monological, not something each person accomplishes on his or her own, but dialogical" (1994: 32). Taylor goes on to highlight that not only the genesis ('Bildung') of our sense of self but also its development ('Ausbildung') is dialogical.

However, and this is where Meyers comes in, we can also view our Bildung with a critical eye. The models, patterns, and figures we have been instructed to recognize and repeat have not all been explicitly chosen, and many of these 'Bilder', as I have stressed, are neither neutral nor innocent. As when perspectives are skewed, these 'Bilder' can may attempt to present incomplete portraits as complete, and when we allow these pictures to seep into our consciousness, they can infect rather than reflect our judgment. Nevertheless, our response to these models, figurations and narratives need not be one of tacit acceptance. Deconstructing our education requires understanding what narratives have been told to us and about us, evaluating them, and transforming these narratives through critical engagement with them. I believe that we should look at them from a critically evaluative standpoint, and discredit and abandon those which reflect back to us demeaning images of our own humanity and the humanity of others.[36] This cannot occur without a displacement of the 'Bilder' that have been inculcated in us since we began to know who and what we are. On a social level, this transformation takes place through normatively challenging the demeaning images of oneself and others that have been projected back to one through one's 'Bildung'.[37] On this account, there is space for the formation and development of self through the mediation of social

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[36] However, sometimes it is the *absence* of representation that does the damage. In social justice movements focused on the struggles faced by indigenous peoples, the term 'erasure' is used to point out that schools rarely teach history from indigenous perspectives, and rarely do indigenous people find their way into history books except as tokens. This is demonstrated by how little is known about indigenous cultural traditions and their various histories in the United States by the majority of its citizens.

[37] Cf. Meyers (2002: 4-5).

forces, but also space for challenging and transforming these narratives. All that is denied is that there is such a thing as a thoroughly self-directed self-formation and self-transformation. We require the mediation and assistance of others for this as well,[38] but of course that does not mean that authentic self-expression is impossible.

Finally, the reflexive verb 'sich (etwas) einbilden' (to imagine [something] to or for oneself) is a specific verb for 'imagining' which connotes falsehood in the imagination, in the sense of the English phrase 'just my imagination.' In addition to taking direct (nonexistent) objects like chimeras, unicorns and dragons, 'sich (etwas) einbilden' can take 'oneself' as the direct object also. One who thinks a great deal of oneself can be said to be 'eingebildet,' and the phrase 'He thinks a great deal of himself' in German is 'Er bildet sich auf sich ein,' which more literally translates to: He imagines much of himself to himself. Interestingly, the prefix 'ein' is the preposition most closely associated with English words such as 'inner' and 'inward,' which I think fits quite nicely with Taylor's criticism of the "monological bent" of modern philosophy that results in an obsession with the 'inner' monologue of the individual. A person who is 'eingebildet' is full of himself, primarily because he always retreats to his (false) image of himself without properly consulting the images of himself he receives from others. Of all the terms built from 'Bild,' 'einbilden' is the only one that immediately connotes falsehood and self-deception. In other words, I think Taylor is on to something in his critique of the obsession with monological individualism.

The digression about the term 'Bild' and 'Bildung' is meant not only to highlight that some conceptual connections come easier to certain languages than others. It is also meant to bring to light the use of images, models, and figures in the formation of our self-understanding, and how these models themselves can be modified, transformed, and changed. In the context of countering prevalent and culturally ordained narratives about womanhood and femininity, Diana Meyers argues that

> Feminist work on the relation between speaking in one's own voice and leading one's own
> life is invaluable, for it calls attention to culturally entrenched narrative templates and

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[38] Even the spiritual adept requires the instruction of the guru.

representational conventions—figures of speech, mythic tales, and pictorial images—that invade women's stories and crowd out alternative versions of their lives (2002: 5).

These cultural figurations appear in a variety of forms, from nursery rhymes to fairy tales to film and television. Meyers connects the issues of mirroring and image together quite explicitly in the preface to *Gender in the Mirror*, along with the issues of self-determination and voice. One way of demonstrating self-determination, Meyers argues, is through the development of one's own voice as one challenges these "culturally entrenched narrative templates and representational conventions" both in speech and action. However, the development of voice itself raises questions about whether one is speaking in one's own voice or the voice of the figures that have been inculcated in a person. Thus, Meyers argues that feminist voice theory must provide an account of how one can get in touch with oneself so as to ensure that one is speaking in one's own voice rather than merely repeating the platitudes and narratives that one has been fed.[39] Meyers calls this problem the problem of voice authentication (Meyers 1994: 16ff). The notion of authenticity, which is mentioned by both Taylor (1994: 27ff) and Meyers, is difficult to articulate, because it requires neither the complete rejection of all the social forms in which one has been brought up, nor the complete and unquestioning appropriation of those forms.[40] What is required is an account of authenticity that does not reduce authenticity to beliefs about oneself and one's actions, but which instead focuses on the practical conditions for authenticity—that is, the skills that someone who is authentic displays in her expressions of self-determination.

For now I will leave to one side the vexed issue of authenticity, although I should mention that Meyers has a refined account of agentic skills that support the development and maintenance of authentic voice.[41] Instead, I want to briefly highlight what has been established in this section. First, I have argued, following Taylor, that the formation, maintenance, and development of self-understanding is heavily socially mediated. Second, I

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[39] Meyers (2002: 17ff).

[40] Cf. Heidegger: "*Authentic being a self* is not based on an exceptional state of the subject, detached from [das Man], *but is an existentiell modification of [das Man] as an essential existential.*" (126 [130])

[41] Meyers (2002: 20ff); cf. Meyers (1987: 626ff).

have argued, again following Taylor, that misrecognition, lack of representation, and other distorted mirrorings projected back to a person can constitute positive harm. Third, I have argued following Meyers that self-transformation is possible by looking more carefully at the models and images one has been trained to recognize and repeat and critically evaluating them. This critical evaluation can leave some of them standing, but will wash away many of these narrative models and templates. Finally, we have briefly looked at how social groupings can come to be defined through these narrative templates. However, the connections between the concepts of culture, community, and social groups need to be more thoroughly worked out. The next section is dedicated to that project.

4. Cultures, Communities, and Social Groups

The last section was devoted to looking at how practices of social signification have a deep impact on a person's self-conception. This section is devoted to how practices of social signification involve contestation, and recognizing this contestation raises challenges for certain ways of conceiving of social groups and communities. The concept of community in Brandom is intended to be fully general, given that his project is about the general discursive practices that take place in communities and is meant to be general enough to cover just about any community of linguistic practitioners.[42] However, in terms of social and political philosophy, this will not do. This is because in the social and political question of what exactly we mean by community, much more is at stake. When we look at Brandom's account of the linguistic practices of deontic scorekeeping through the lens of unequal distributions of power and responsibility, we can look to the social and political effects that deontic scorekeeping has on the lives of members (and non-members) of a community. In particular, we can ask whether it would be an appropriate reading of Brandom to identify his linguistic communities with what social theorists identify as cultures, or whether it might be better to speak of social groups rather than culture, or whether there can be an account of community that is preferable to these options. I will argue that there can be. My own view is

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[42] "This book is an investigation into the nature of *language*: of the social practices that distinguish us as rational, logical, concept-mongering creatures—knowers and agents." (Brandom 1994: xi)

that we can compare what has been said about community, culture, and social groups in order to discover similarities and differences in each of these concepts. The concepts 'culture' and 'social groups' have assets as well as liabilities. Here I will take as fundamental the concept of community, rather than culture or social group. What we will come away with, I hope, is a normative understanding of community that can make sense of our belonging to a social group or culture in terms of being so ascribed, but also arguing for the importance of voluntary self-ascription in one's social group or culture. In Section 5 I will argue that normative change can be understood as taking place in changes in normative attitudes and their attendant changes in attributions, ascriptions, and acknowledgements.

When Taylor speaks of the real harms that are the result of misrecognition, he says that "a person or a group of people" can come to suffer real harm from misrecognition. The previous section focused the majority of its attention on the individual person. This means that more discussion of what sorts of "groups" of people can suffer this damage is required.[43] Taylor considers the issue of representation in education by people of multiple genders, races, and cultures in the context of revising the notion of a "canonical" survey in education.[44] The claim is that representation of people with a variety of backgrounds is needed in education, not only to provide a more rounded out picture of the world, but also as a matter of respecting the people who come from different backgrounds and traditions. Philosophy, if presented as a narrow set of issues, whose thinkers come from culturally similar backgrounds and perspectives, will (intentionally or unintentionally) pass over many things written, seen, felt, and understood by people from different backgrounds and perspectives. Passing these other experiences over nevertheless sends a message, (intentionally or unintentionally): That the perspectives not represented are not worthy of representation; that all the good ideas, works, and deeds that are worthy of representation, came from this

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[43] Tayor (1994: 65ff).

[44] Taylor (1994: 65ff).

narrow set of issues, and these sorts of thinkers.[45] It projects the idea whatever philosophy found its way into the "canon" did so on the virtues of their intrinsic merit alone; that the operations of power structures had no influence on the selection of texts and thinkers. This happens also in the narratives of historical education.[46] In the United States, for instance, very little is taught about the history and traditions of First Nations.

Taylor's recommendation, then, is to listen especially closely to the marginalized and silenced voices. His suggestion is that we should believe that any human institution that has managed to survive for significant amounts of time, any which spans generations, most likely has something worthwhile to say about the human condition, and definitely something to add to a conversation that is in danger of being one-sided when the selection of the issues, people, and events to which children and students are exposed represents but a few of the possible perspectives on what it is to be human.[47] This is at odds, as Taylor recognizes, with the idea that there is any such thing as a culture or people that completely 'got it right.' In the European tradition, a concern for objectivity has nearly always been central to philosophy, whether the attempt is to ground or to refute the notion of objectivity. This concern for objectivity has sometimes produced a certain kind of hastiness. Claims to be fully general have been sandwiched between unwarranted, demeaning, and false generalizations.[48] Taylor,

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[45] Compare the silencing of Elizabeth Warren on the Senate floor February 7th, 2017, who attempted to read a letter by Coretta Scott King to the Senate floor. See https://www.theguardian.com/us-news/2017/feb/08/elizabeth-warren-mitch-mcconnell-silence-senate-debate-jeff-sessions-nomination

[46] Attempts to redress this one-sided view of history and philosophy are many and varied. In history, they include Dee Brown's *Bury My Heart at Wounded Knee*, and Jeanne Theoharris's excellent biography of Rosa Parks, which highlights her decades of acitivism and organizing, destroying the myth of the quiet seamstress simply too tired from working to stand up. Howard Zinn's *A People's History of the United States* is in this tradition, and this model of history has even found its way into middle school textbooks, with *101 Changemakers*. In philosophy, they involve a restrucuring of the canon to recognize the contributions of women and people of color to the Western canon, and a wider engagement with a larger variety of philosophical traditions in things like the Stanford Encyclopedia of Philosophy and the Blackwell Dictionary of Philosophy.

[47] Again I am reminded of King's discussion of the monologue of Southern racism and the dialogue he was hoping to create.

[48] One need not look very far in modern political philosophy to find claims to the universality of rights uncomfortably juxtapositioned with racial and gendered slurs aimed at dehumanizing those to whom those very rights were being denied at the time of the theorist's writing. Benhabib provides the example of Locke, urges us not to throw out the universalist baby with the racist bathwater.

for instance, argues that it is quite possible that claims to objectivity have been mere projections of particular perspectives that importantly left out other voices.

Yet we must move somewhat beyond Taylor. In order to develop a challenge to our models of history and philosophy that includes this multitude of perspectives, we have to also look at the contestation within even those traditions that heretofore have been given insufficient attention. Here I will follow Seyla Benhabib's insightful discussion of culture in *The Claims of Culture*.[49] Once we have looked into the concept of culture as it is applied in policy and theorized in philosophy, we can look into parallels between what Benhabib says of culture and what Ann Cudd says about social grouping practices in *Analyzing Oppression*.[50]

Cudd argues that membership in a social group sometimes comes about through intentional choices (as when we elect to join a group) and sometimes through no choice of one's own (as when one is ascribed a social identity by an institution, usually for reasons having to do with differential treatment. Benhabib's criticism of communitarian theories might be characterized by saying that they fail to recognize a distinction between structural and intentional aspects of personal identity. While there are structural features of who I am that were not chosen by me (my race, my birthplace, my citizenship, my native tongue), there are several aspects of myself that were explicitly chosen by me (my profession, my activities, many aspects of my character and personality). Not everyone 'identifies as' those identities that are frequently ascribed to them. Even given the existence of social groups and their role in the formation of personal identity, there is always room for the question of individual personal identity and personality. I may have certain characteristics, but it is a different question whether or not I allow those characteristics to define me.

Once we have laid out the discussions of culture and social grouping practices, respectively, we will be in a good position to present an account of community consistent with the existence of social groups as the result of practices of social grouping, but also consistent with

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[49] Benhabib, Seyla (2002). *The Claims of Culture*. Princeton University Press.

[50] Cudd, Ann. (2006). *Analyzing Oppression*. Oxford University Press.

the variation in self-ascriptions that can arise within cultures and social groups as typically defined by policy and sometimes by philosophical theory. I take the aforementioned to be desiderata of an account of community: it must be able to account for diversity and contestation within communities about constitutive questions, and yet be consistent with the overlapping structural and intentional patterns of social organization.

Seyla Benhabib provides a wonderful (if not entirely positive) assessment of the ways in which culture (whether regional, national, or religious) tends to be understood both in policy and philosophy. There are many problems with the way culture is spoken of in philosophy and policy, she argues, most if not all of which stem from a tendency to treat cultures as cleanly divisible ontological units, composite but whole, diverse but unified, which speak with one authentic (or pure) voice. She remarks:

> Philosophically, I do not believe in the purity of cultures, or even in the possibility of identifying them as meaningfully discrete wholes. I think of cultures as complex human practices of signification and representation, of organization and attribution, which are internally riven by conflicting narratives (2002: ix).

This should instantly remind us of Brandom's critique of the notion that there is a privileged community perspective from which we can assess the performances of individuals. She also speaks of the "essential contestability of cultures" and of "struggles for recognition" (ibid), which by now may sound familiar. The use of the term 'struggle' should remind us of Pippin's critique of Brandom's blithe use of the term 'negotiation,' and King's argument that sometimes getting to the negotiating table requires forcing negotiation through highlighting tension, engaging in struggle and bringing accepted ways of life, accepted questions and accepted answers to them, into crisis.[51] King argues that many of these tensions are already present in the narratives available to us, simply waiting to be recognized, in other words, as Benhabib says, these traditions are "internally riven by conflicting narratives."

Narratives abound in human life. We conduct our discourse and make our assessments through the use of narratives. Narratives thus have normative import and themselves can

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[51] See King, "Letter from a Birmingham Jail," p. 57 in H. A. Bedau (ed) *Civil Disobedience: Theory and Practice*

come to shape norms.[52] We ground our arguments in favor of proposed rules often in the form: *Because* X has been done, Y now *ought* to be done. Thus, narratives are also central to human activity. Narratives are also told to us by others (but also by ourselves) *about* ourselves, who we are, what we have done, whether we have done right or done wrong by them, and what our status is as a result of that. These narratives about ourselves which we are told include narratives about our heritage, about who we are and where we come from. These heritage narratives are both specific and general. We speak of both the great human heritage of all human knowledge and wisdom, the accumulated wealth and knowledge of all of humanity, as well as of the specific heritages of our nations, states, tribes, religions, families, and other associations into which we were born, and with which we may or may not wish to identify. These narratives can even involve cosmic elements about the divine or earthen heritage of humanity, and many of these narratives appeal to myths.[53] These, in a sense, are our "given" narratives. But these narratives are rife with inner and outer conflicts of interpretations and contradictions. This makes the notion of a unified voice of the culture, or of a privileged perspective of the entire community, troublesome in theory and impossible in practice. As Benhabib reminds us, "Narrativity and narrative disagreement… are rooted in the structure of human actions, which are made of deeds and words" (2002: 102). Culture operates through the interplay and contestation between these narratives, which in turn structures human relations, turning narratives into actions that in turn reinforce the narratives. Many of these narratives remain to be contested, and are dangerous. They must be interrupted, so that other voices can speak.

Benhabib's argument against treating cultures as monolithic, univocal, and monological wholes lies in her critique of the epistemic premises upon which such treatment rests. I list these "faulty epistemological premises" below:

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[52] I think it no small coincidence that children's first exposure to morality often comes through fables or other culturally embedded narratives.

[53] One example of an interesting line of thought on this is Edmund Cassirer, *The Myth of the State*.

> (1) that cultures are clearly delineable wholes; (2) that cultures are congruent with
> population groups and that a noncontroversial description of the culture of a human group is
> possible; and (3) that even if cultures and groups do not stand in one-to-one correspondence,
> even if there is more than one culture within a human group and more than one group that
> may possess the same cultural traits, this poses no important problems for politics or policy.
> (2002: 4)

She argues against (1) by arguing against (2) and (3) throughout the remainder of the book. Central to her argument against (2) is her recognition of the conflict *within* what are treated as 'cultures.'[54] These conflicts are about the culture itself: what it represents, who is (or is not) a member, which members get what standing within the culture, what the culture itself stands for, its history and its visions for the future. She argues that culture is a complex interaction of these practices of signification, which present conflicting narratives, and in which there is a variety of interpretations and struggles for recognition. From this it follows that any narrative purporting to present a univocal perspective of all the members of the culture should immediately be regarded with no small amount of suspicion. As Benhabib warns, "It matters a great deal whether we defend culturalist demands because we want to *preserve* minority cultures within the liberal-democratic state or because we want to *expand* the circle of democratic inclusion" (2002: ix-x). Struggles for recognition attempting to challenge the monolithic and monological interpretation of a culture, intent on expanding the circle of democratic inclusion, should be supported. But that is not always the case in culturalist demands.[55] Moreover, the projection of unity often also comes from a perspective outside the community.

> The view that cultures are unified, harmonious, seamless wholes that speak with one
> narrative voice is… the view of cultures from the outside. By the locution 'the outside,' I do
> not meant the standpoint of the stranger and nonmember. The observer is the one who seeks
> to comprehend and to control, to classify and to represent the culture to the other(s). It is
> the epistemic interest in power, I want to suggest, that leads to the silencing of dissenting

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[54] Her argument against (3) consists of her interpretation and evaluation of case studies. She considers the Shah Bano case, cultural defense arguments that have successfully been used in United States criminal cases to acquit people who otherwise would be found guilty of kidnapping, rape and murder, and the scarf affair in France. In none of these cases did the rights of the women play a central role in the arguments, nor were the girls involved in the scarf affair asked for their reasons, leading to just the kind of silencing of voices of dissent that is indicative of the narrative of cultures-as-monoliths. Benhabib concludes (quite correctly, to my mind), that these cases "suggest that multicultural institutional arrangements and legal compromises very often work to the detriment of women" (2002: 100).

[55] On this topic, see Benhabib Chapter "Multiculturalism and Gendered Citizenship" in *The Claims of Cuture*.

opinions and contradictory perspectives, and yields dominant master narratives of what the cultural tradition is, who is in, and who is out. (2002: 102)

Let us connect this discussion of the view from the outside to the discussion of attribution and acknowledgement from earlier. I argued in Section 3 of this chapter that narrative self-interpretation and self-understanding is mediated by others. One aspect of the social mediation of self-interpretation is the ascription to us of group membership that comes from others both within and from outside our particular social grouping. If this is true, then the view of cultures 'from the outside' as monolithic is an imposition similar in kind to the function of attribution, which may not receive acknowledgement from those to whom something is attributed. Thus there is a potential gap between social group membership being *ascribed to* someone, and one's own sense of identity—that is, what aspects of one's own identity that one *acknowledges*. This gap, I will argue, is analogous to the potential gap between commitments/entitlements *attributed to a person* and commitments/entitlements *acknowledged by that person*. On this view, which is my own, social group ascription is a form of attribution-to-one, and self-identification is a form of acknowledgement-by-one. Seen in this light, norms of standing practice seem even less a matter of propriety and even more a matter of power. To be ascribed membership in a particular social group can be considered as having been attributed various traits, normative attitudes, privileges and responsibilities, all according to the dominant master narrative of the social group in which to which one is ascribed membership. And this attribution may not sit right with one, and one may refuse to acknowledge many aspects of it. Being ascribed membership into a particular social group is something that initially and for the most part comes from *outside* oneself. One is ascribed membership, and one may or may not self-identify with that ascription and its related narratives. We are all members of various social groups, and individuals might self-identify with some of the social group ascriptions-to-them more than others.

Thus, there is an analogous relationship between social group ascription and attribution of commitments and entitlements, on the one hand, and self-identification and acknowledgement of commitments and entitlements, on the other. We do not choose what others will ascribe to us, and social group ascription is simply one form of attribution. If social status is at all related to normative status, and there is no reason I can see to think that

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it is not, then the ascription of social group membership, when it comes normatively laden with certain narratives (ones that often demean, belittle or erase), has a deleterious impact on one's normative status. It shapes the privileges, entitlements, commitments and responsibilities that accrue to individuals according to the standing practice. This in turn highlights the need to normatively evaluate standing practice itself.

Yet social perception is far more subtle than the idea of keeping score in a game. In particular, expectations around social group formation are not always explicit. Even when racially motivated laws are removed, there remain implicit biases and unconscious attitudes that require self-awareness and training to redirect and remove. When one thinks of how implicit bias can affect the chances of potential job applicants, the analogy of deontic scorekeeping seems to falter: Either the game is not being played right, or the odds are unfairly stacked against some players as compared with others. This kind of unfairness can be brought to light and made explicit, motivating programs that intend to correct for these kinds of biases. And even with such programs in place and self-awareness on the part of particular hiring agents, such problems persist, suggesting that removing these implicit social stigmas is not going to be easy. However, pointing out the existence of implicit bias does call attention to aspects of our common practice that deserve more attention than they have received. Making these implicit imbalances explicit has helped to some degree in correcting them, but more work must be done. Implementing measures to correct for the imbalances needs to be met with understanding that they are imbalances and that they require further work.[56]

This distinctions between ascription and self-identification, on the one hand, and attribution and acknowledgement, on the other, is also central to another way of looking at how the formation of social groups maintains social orders: Ann Cudd's definition of social groups in *Analyzing Oppression*. I might also mention that the distinction between ascription and identification, which has analogues in the distinction between attribution and acknowledgement, also has parallels with the existentialist distinction between thrownness

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[56] I would like to thank David Stern for redirecting my attention to this particular aspect of the phenomena under discussion.

and authenticity.[57] We are thrown into a world and into a situation we did not choose, but also thrown into a situation where we must choose. Part of this being-thrown involves the commitments and entitlements, privileges and responsibilities that accrue to us simply in virtue of our being thrown where we have been thrown. As Brandom says, "Some commitments (and entitlements) we just come with, by default" (1994: 596). There are two (equally interesting and equally important) ways of interpreting this claim. The first is fully general, and might fit well into a generic discourse about human rights. For instance, we might say that a child is, simply in virtue of its existence as a human, entitled to nourishment, education, health care, and genuine opportunities for learning, growth, self-expression and freedom. As for commitments, on this first interpretation, these might be spelled out in fully general moral theories that list obligations and protections that purport to redound to every individual in virtue of simply being human. (Those who are rigidly pacifistic might be entering such a universal claim: as humans, we ought to commit to relinquishing our drives toward vengeance and violence. As with any norm, however, accepting the authority of such a norm is quite consistent with the possibility of going wrong with respect to action.)

The second way of interpreting this claim is as recognizing the contingency of our placement in the world, a contingency that results in unequal distribution of privileges and responsibilities, of commitments and entitlements. In other words, depending on one's ascription of race, class, gender, or any combination of these, one might find oneself with tremendous amounts of social responsibilities, without very many privileges or opportunities, all the while having an inferior image of oneself thrust upon one by the very people revoking one's privileges and heaping upon one responsibilities.[58] How we orient ourselves to our "default" commitments and entitlements, and what exactly they are or ought to be, as I have argued in the case of making norms explicit, can be normative as well as descriptive. We can

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[57] Heidegger's *Being and Time* works out an interesting development regarding the movement from our socialization into our authentication. I will not get into too much detail here. That is an entirely different project, about which so much has already been said that to include a proper summary and analysis here would be quite impossible.

[58] On this Cf. Walker (2007: 76ff). We will return to this discussion at length in Chapter 3.

argue that we are expected to undertake certain commitments but that we refuse to acknowledge them, and that we ought not acknowledge them because we ought not be attributed these commitments. We might argue that certain entitlements are unwarranted, unfair, and perpetuate injustice. We can argue—normatively—for the revocation of those entitlements. In all of this we will be relying on the objective notion that there can be a difference between the way something is being done and the way it ought to be done, or whether it ought to be done at all. Much more will be said about claims to objectivity, perspectives, and how they contribute to the unequal distribution of privileges and responsibilities in Chapter 3.

Let us return to what takes place in the ascription of social group membership. Ann Cudd provides a useful definition of social grouping that can account for two important but distinct ways in which social groups are formed: By choice and by fiat.[59] Cudd is in favor of seeing social groups as aggregates of individuals, but of a special, non-accidental sort: "We are individuals who belong to social groups, some of which we choose to belong to and some of which we belong to whether or not we would choose to belong if we could" (Cudd 2006: 34).[60] According to Cudd, social groups have both structural and intentionalist elements. While theorists on social groups are split between intentionalist and structuralist approaches, Cudd finds this split misleading and unnecessary.[61] Intentionalists focus on membership in groups where one can elect to join. Examples are social clubs and conversational pairs. Structuralists focus on ascribed structural and institutionalized identities such as gender, race, and class.[62] Cudd seeks a definition of social groups that can account for both our *individual*

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[59] See Ann Cudd, *Analyzing Oppression*, esp. pp. 28-54. I feel it necessary to stress that I am only following Cudd's means of identifying social groups, and not necessarily endorsing her final analysis of oppression, which I think relies far too heavily on rational choice theory.

[60] I argued above that *self-identifying* as a member of a social group is ananlogous to *acknowledging* one's social group membership, and being *ascribed* membership in a social group is analogous to being *attributed* membership in a social group.

[61] See Cudd, *Analyzing Oppression*, pp. 35-6.

[62] Cf. Benhabib (2002, 74ff): "Debates ranging over the classification of census groups in the contemporary United States not only exemplify this tension between ideals of self-definition versus ascribed identities among the population, but they also illustrate the political and social processes of corporate group formation."

self-identification with social groups (the intentionalist approach) as well as our being ascribed social identities on the basis of *social* facts or actions (the structuralist approach). She defines social groups as follows:

> Social groups, broadly speaking, are non-accidental groups that are formed by or maintained by some social fact or action, either intentionally or as an unintended consequence of some social fact or action (2006: 35).

Notice Cudd's definition includes the disjunction: "formed… *either* intentionally *or* as an unintended consequence of some social fact or action" (*ibid*, emphasis mine). This way of delineating social groups is not faced with the unfortunate choice of deciding which kind of social group formation is the most basic one, and also allows for considerable overlap between social groups.[63] This dual intentional/structural understanding of social grouping practices strikes me as correct. It recognizes the interplay and contestation between ascription and identification, and by extension between attribution and acknowledgement. That we are ascribed social identities in addition to those we script for ourselves gives rise to a number of related issues. What is most interesting here is that there can be a gap between one's social ascription and self-identification analogous to the gap between attribution and acknowledgement. Where attributions outpace acknowledgements, normative challenges begin to arise. Feminist and anti-colonial discourses provide ongoing examples (one might say models) of how to challenge prevalent, monological ascriptions of traits to structural social groups such as women or cultural minorities, through withdrawal of acknowledgement of those ascriptions and the provision of their own stories from their own minds in their own words.[64] Resisting and challenging the narratives that drive stereotypes of what it is to be a member of a particular social group is part of the work of raising awareness and dismantling

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[63] I agree with Cudd that this hybrid model of social groups is well suited for the task of analyzing oppression, though I do not follow her analysis all the way. For instance, I do not share her confidence in the methods of rational choice theory, because consensus on its empirical adequacy has long been in disupte and rational choice theory is no stranger to formidable challenges. For a survey of problems with grounding theories of human motivation and action (and by extension, political and moral theory) on the model of instrumental rationality, see Joel Anderson and Axel Honneth, "Autonomy, Vulnerability, Recognition, and Jusitce" in J. Anderson and J. Christman (eds), *Autonomy and the Challenges to Liberalism*, pp. 127-149. Cambridge University Press: Cambridge.

[64] Jeanne Theoharis' biography of Rosa Parks is a great example of someone reclaiming the narrative of an historical figure from the diminished and distorted public image of that person.

the stultifying narratives and the actions they misguide that continue to contribute to subordination.[65] It also provides an example for how to challenge norms of actual standing practice, by challenging the narratives that underwrite those norms.

I feel it necessary to mention that in the present political climate, narratives about 'other' social groups (including intentionalist ones like religions and structuralist ones like race, class, and gender) are rife with these exact faulty epistemological premises about cultures (and by extension, social groups) which Benhabib identifies. The present political climate also demonstrates the very real dangers of allowing narratives like this to drown out individual voices within those social groups. Most importantly, when constructing narratives about people, it is crucial that they have input into that narrative themselves, so as not to commit the fallacy of poisoning the well and turning deaf ears and hard hearts away from a conversation that affects us all as a community. It is equally important to create community by creating conversations in which each of us is willing to be held accountable, and willing to hold others accountable who in turn are willing to be held accountable.

Once we look at conversations within social groups (whether they are formed intentionally or structurally) with open ears, we discover in these conversations (and thus in these communities) remarkably similar struggles to define and determine what the community stands for, what their practices are, and whether those who are involved in common practices take them seriously or view them as a farce.[66] Within the discourse of feminism in particular, questions about whether there is tension between the autonomy of women on the one hand, and their adherence to certain kinds of traditions on the other, frequently arise. Are certain traditions inherently and irrevocably oppressive towards women? Do all those who participate in them—even and perhaps especially the oppressed themselves—contribute to and perpetuate that oppression? For some the answer is that there is no necessary antimony between tradition and freedom, and that one can freely choose to give up certain other

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[65] An exemplar of this method is Diana Meyers *Gender in the Mirror*.

[66] See Fossen (2014b). "Politicizing Brandom's Pragmatism: Normativity and the Agonal Character of Social Practice." *European Journal of Philosophy*.

freedoms that person would otherwise have had they not adhered to that tradition. Others argue that there is a direct inconsistency between freedom and tradition.[67] With respect to the traditions of veiling by Muslim women, this discourse raises just these kinds of questions.

However, in these debates, it has been noted, one very important voice is frequently left out: the voice of the Muslim woman herself. Uma Narayan observes that in "discussions about 'cultural practices' pertaining to Third World women that I have both in the classroom and outside it, I believe that two different but connected 'specters of the other woman' often haunt these conversations and require philosophical exorcism" (2002: 418). These two specters are the 'prisoner' and the 'dupe' of patriarchy. One who imagines the prisoner imagines the imposition of patriarchy against one's will and consent, and despite one's struggle against it. One who imagines the dupe imagines patriarchal violence as all but self-imposed. Narayan observes of the imagined 'dupe' that "Her attitudes are envisioned as completely shaped by the dominant patriarchal values of her cultural context" (2002: 418-9). Narayan's article is aimed at exorcising these specters through engaging in direct dialogue with actual women who practice veiling. The reason this is important to do is that it reveals that there are various attitudes that one can (and does) take up toward the practices of one's community. These attitudes are not always attitudes of total approval, and not always attitudes of rejection of traditions. Conceiving of the responses of other women to patriarchal practices as polarized in this fashion occludes the point of view of the women who actually make these choices in patriarchal contexts. Narayan reminds us that

> The decisions many women make with respect to 'cultural practices' might, I think, be understood as a choice of a 'bundle of elements,' some of which they want and some of which they do not, and where they lack power to 'undo the bundle' so as to choose only the elements they want (2002: 422).

This brings us back to one of our other central concepts for this chapter: negotiations. Where we are negotiating between bundles which we cannot undo, we might have to make concessions and pick our battles. This means that even when people voluntarily self-identify

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[67] Cudd responds to the issue of the oppressed perpetuating their own oppression by invoking a difference between short-term rational choice and costly long-term rational defense of oneself. Backing off the premises of rational choice theory, we can agree with Cudd by recognizing that people respond to incentives and that those incentives can be positive or negative.

with certain traditions, there may yet remain elements of those traditions with which they find fault and which they might seek to revise. Narayan is also correct to point out that the way in which 'Other' women are perceived in Western discourse has a subtle but nefarious colonial ideology attached to it. It serves to mask the constraints on choices that Western women face, playing up their freedom and playing down their constraints, while playing up constraints of Other women and playing down their freedom: "I believe that the legacies of colonial history often encourage mainstream Westerners to *overemphasize constraints and underemphasize choice* in Other cultural contexts, while *underestimating constraints and overemphasizing choice* in Western contexts" (2002: 424).

I bring up Narayan's excellent discussion on this issue because I wish for it to serve as a narrative case study. In Benhabib's discussion of the scarf affair, she pointed out that the voices which remained unheard were the voices of the teenage Muslim girls who wore scarfs despite the ban on public representations or religious symbols. These girls were at the very center of the controversy but farthest from the center of the conversation. This kind of not-listening happens often when false and distorted overgeneralizations are spread throughout public discourse and policy. Taylor would remind us to listen more carefully to the marginalized voices, and this is exactly what Narayan has done. She has demonstrated that attitudes within communities among people who adhere to the normative traditions of a community vary regarding the meaning as well as the propriety of the practices and traditions of the community. This highlights the differences between ascription and self-identification, between attribution and acknowledgement. Narayan corrects an imbalance in attribution and acknowledgement: Westerners need to acknowledge their own constraints and to acknowledge the use Others make of their freedom. They also need to stop attributing self- and other-imposed oppression without looking more closely at their own practices and whether or not these practices contribute to their own oppression.

By now I hope to have shown that Benhabib's warnings against the dangers of totalizing and other-ing narratives, though largely unheeded, are painfully relevant to the social situation in which we presently find ourselves in the United States. Indeed, the United States is presently undergoing its own crisis of identity and meaning, and coming to define more and more

who it is, and what it stands for. We are faced with many questions, the answers to which will have no small amount of historical significance. That conversation is aided by dismantling the myths, historical amnesia, and self-deceptions that abound in our national narrative. Benhabib's words about nationalist movements ring especially true today.

> Defining the identity of the sovereign nation is itself a process of fluid, open, and contentious public debate: the lines separating 'we' and 'you,' 'us' and 'them,' more often than not rest on unexamined prejudices, ancient battles, historical injustices, and sheer administrative fiat (Benhabib 2002: 177).[68]

By looking at how people come to form various perspectives on their participation in the practices of their communities, we can begin to see how subtle normative shifts can come about once these perspectives gain sufficient acknowledgement. In addition, shifts in the acknowledgement of authority provide a basis from which we can observe the operation of incremental normative change. Societies rarely face total crisis in identity, and while these crises have profound historical implications, the more subtle normative shifts that eventually give rise to these kinds of crises must be given proper attention, so that we can understand these processes well enough to direct them through our own practices and patterns of acknowledgement and attribution.

5. Normative Change: Everyday Challenges and Extraordinary Crises

The last section mainly spoke about what communities are not. This section draws from Benhabib's comments about community as being constituted by conversation and aims to affirm and develop that understanding. Still, we need to be clear about the sense in which use the word 'conversation' so that the scope of a conversation shows the horizon of a community. This way of drawing boundaries around 'community' must also demonstrate its usefulness, not only for description, but also for potential transformation. Showing what the horizons are by drawing these horizons around the scope of social, cultural, and political

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[68] Cf. Jared Diamond (2005) on the Tutsi and Hutu in his *Collapse* (pp. 313-327). He presents evidence that, prior to the genocide, intermarriage, trade, and peaceful relations between the Tutsi and Hutu were quite common. He also presents evidence that 'outsider' (in Benhabib's sense) German and Dutch colonists were primarily responsible for identifying and intensifying ethnic group differences, essentially in order to make colonization simpler for them. Cf. Human Rights Watch, *Leave None to Tell the Story: Genocide in Rwanda*.

conversations, we will also discover a way to create and expand community, reveal the power of reciprocity, and demonstrate why it is important to listen to and speak with one another about issues that affect everyone, and include everyone who will be affected by the outcome of the conversation. We will also highlight the dangers of not speaking, of not listening, of silencing, or of being silenced.

In this section, we will speak normatively of the norms of public political discourse. This normative discussion falls under the umbrella of the kind of normative discourse which this project has undertaken from its very start. We seek to describe accurately, but also to help shape our normative practices. By this I mean two things. First, that in appropriating norms of public political discourse from Benhabib, I am not describing how people tend to actually conduct their public political discourse. I am instead arguing that they ought to conduct their public political discourse much better than they have actually been. I am acknowledging that it is quite possible to go completely wrong with respect to these norms. Second, I am hoping to urge everyone reading this to take up these norms, defend them, hold people accountable according to them, and also help shape and improve them.

While the last chapter focused on normative discursive practices, this section of this chapter focuses on what might be called the practices of discursive norms—the way that norms are molded through their operation in the conversations to which they themselves apply, how they change and are modified by their use, disuse, or abuse, as a result of the working of the discourse over which they are applicable as norms. I begin by adopting Benhabib's suggestion that we should understand community as constituted by conversations and the issues involved in those conversations.

> Membership in this community is defined through the topic of conversation, the task at hand, or the problem being debated. For a true pragmatist, the formation and definition of identity would follow suit upon identification of a set of shared interests, be they scientific, artistic, cultural, linguistic, economic, or national. (Benhabib 2002: 33)

If we are to understand community through shared interests and topics of conversation, then we need to be clear about how to construe these kinds of conversations. What problems we

have and what issues there are might define the topic of conversation,[69] but struggles exist even in trying to define what problems we have, which problems we should take seriously, and what should be done about those problems. This means that we should not be tempted to reduce communities to particular conversations about particular (already taken as settled) problems. There will be numerous communities of various sizes, depending on the issues recognized and conversations about what issues ought to be recognized. Our description should include conversations about what the conversations should be about as well. We can still define communities according to topics of conversation even where only some people in the conversation (and so in the community) recognize a problem, and where others do not. So defining the problems we need to face is part of understanding the operation of community construed as constituted by conversation. Sometimes we think there is a problem that there is not, and other times we do not think there is a problem when there is.

The United States has numerous problems, many of which are not sufficiently recognized. For one example, there is the increasingly public extrajudicial killing of unarmed Black citizens by police and others who go on to suffer little to no serious consequences. This is a problem both of over-policing and of insufficiently holding agents accountable for their tremendous mistakes (or intentionally horrendous misdeeds). A great deal of recent public political discourse has been centered around the need to recognize and deal with this problem,[70] and this discourse has of course included many who fail to sufficiently recognize the problem. So the conversation involves both those who recognize a problem and those who do not. But disagreement need not be the end of a conversation. It can also be the beginning. This means we should not narrowly define communities as existing wherever, within a particular ongoing public conversation, more or less everyone recognizes the same

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[69] See also Benhabib (2002: 11-2; 36-7).

[70] This problem is not new, either. The criminalization of Blackness in the United States is rather well documented. See Michelle Alexander, *The New Jim Crow* for an exemplar in revealing the historical pattern of dehumanizing, demonizing, and criminalizing Blackness in the United States. Recent discourse around racial profiliing and extrajudicial killing are merely extremely public and recent chapters of the lack of consequences for white murderers of Black people, and merely recent chapters of state violence against people of color, which follows a pattern that leads back to the origin of the nation.

narrow set of problems and seeks more or less the same solutions, especially if this means ignoring that there is another side to the conversation that recognizes different problems. This conversation also involves whose obligation it is to talk to whom. I mean by this that it is not necessarily always up to Black people to convince white people that there are problems of institutionally supported killing of Black citizens, because this work can be emotionally and psychologically draining and even traumatic. More than half the work, it seems to me, is convincing people to actually listen to one another and engage in more open and honest dialogue with one another in which each person is willing to be held accountable by others.

Initiating and continuing these kinds of conversations in turn makes it possible to create, maintain, and expand a variety of communities centered on a variety of issues. Issues which affect the life and well-being of all human beings (for instance, global climate change) also necessitate certain global conversations, and this means in some sense creating a global community (though this need not be a global state). We will go into detail about one manifestation of that issue later. This means that community boundaries are constantly shifting, as we continue to self- and other-interpret and the range of diverse practices, attitudes and lifestyles we demonstrate through our practices.

> If all understanding and interpretation of the other(s) must also make sense to us from where we stand today, then the boundaries of the community conversation extend as far as our never-ending attempts to understand, interpret, and communicate with the other(s)… This global situation creates a new "community of interdependence." (Benhabib 2002: 36)

This brings me to the topic of norms of public political discourse. For now, I simply adopt Benhabib's norms of public political discourse, but I will also demonstrate their importance by considering as an example the issues surrounding the proposed Dakota Access Pipeline and the massive opposition to it, much of it galvanized by and organized from the Oceti Sakowin Camp in Cannonball, North Dakota.[71] As I introduce the proposed norms of public discourse, I will be exploring how this example shows both success and failure according to these norms by various participants in the conversation.

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[71] I use the name Oceti Sakowin (The Seven Council Fires), because that is the proper name for the people commonly known as the Sioux.

When we think of conversations of great significance and consequence, they center around which problems we recognize as most salient, and proposals concerning what must be done about them. We view these conversations as significant because the outcome of these conversations will affect a great deal of people, or will disproportionately burden some people in the service of others. This is why everyone who will be affected by the outcome of a conversation should be allowed into the conversation and have a voice in determining its outcome. Moreover, those who will be most affected by the outcome of public decisions mediated through public conversations must be given special consideration. This means that norms of conversation can be measured by whether participation in a given conversation is open to all who will be affected by its outcome. This provides a normative constraint for conversations of the kind we have in mind here. Benhabib stipulates inclusion conditions for public discourse as follows:

> All dialogue, in order to be distinguished from cajoling, propaganda, brainwashing, and strategic bargaining, presupposes normative rules. Minimally formulated, these entail that we recognize the right to equal participation between conversation partners, whom I define provisionally as "all whose interests are actually or potentially affected by the courses of action and decisions which may ensue from such conversations." Furthermore, all participants have an equal right to suggest topics of conversation, to introduce new points of view, questions, and criticism into the conversation, and to challenge the rules of the conversation insofar as these seem to exclude the voice of some and privilege that of others (2002: 36-7).

An example that I believe illustrates the moral need for inclusion and participation by all those whose interests will be affected by the outcome of a public discussion is the fight against the proposed Dakota Access Pipeline, particularly the opposition to it expressed by the Oceti Sakowin, and the numerous indigenous and non-indigenous groups that have flocked to join this opposition, which continues at the time of this writing. It also demonstrates the need, I believe, to recognize the historical context in which a conversation arises and takes place, so that we can better understand and evaluate the claims made by the United States Army Corps of Engineers, Energy Transfer Partners, and most importantly, the Oceti Sakowin.

The historical context of this situation should be understood as beginning with Native American genocide, including a string of broken treaties made by the United States, and the

visible lack of good faith in dealings between the First Nations and the United States, bad faith which continues today, long after disapproval of the forcible removal of Native Americans from their homelands found its way into the public consciousness.[72] Another aspect of significance in the historical context of this conversation is anthropogenic global climate change, widely recognized by the scientific community and many in the public to *be* anthropogenic. It is also widely recognized that this anthropogeny is mainly the result of humanity's continued use of nonrenewable fossil fuels. Much time, money, and effort is spent trying to cover these facts up, or obfuscate them through anti-scientific rhetoric whose effect is to erode public trust of scientists and public education itself. Here we have a case where numerous problems exist but many of them are not sufficiently recognized by many who are in a position to do something about it. Indeed, many of those in a position to do something about it are among those who cause and exacerbate these problems. Nevertheless, I want to focus mainly on two contextual frames of this situation: demands for indigenous sovereignty and anthropogenic global climate change. With these two contextual features in focus, we can look more closely at the conversation surrounding this pipeline.

Opposition to Energy Transfer Partners' proposed Dakota Access Pipeline (under construction even as I write this) has been widespread and multi-state.[73] Nevertheless, there are good reasons why much of the public attention to this large scale opposition has centered on the opposition to the pipeline by the Oceti Sakowin, reasons which demonstrate the need for conversational community as well as how it can come about. First, it is worthy of note that the Seven Council Fires of the Oceti Sakowin, each fire representing one band of the Great Sioux Nation, have not been called together in one place for several generations. Gathering together to challenge this pipeline, each of the members of the Seven Council Fires, in coming together in once place, created a conversation that brought together not

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[72] Indeed it can be argued that the fact of Native American genocide has not yet sufficiently been acknowledged in the public consciousness of the United States. Public sentiment shifts more slowly than one would hope. For an excellent survey of this shameful historical context, see Dee Brown, *Bury My Heart at Wounded Knee*.

[73] In the state of Iowa, for instance, the movements Indigenous Iowa and Mississippi Stand fought construction of the pipeline until its construction in the state was complete, and continue to fight its continued construction elsewhere.

only the Oceti Sakowin, but also many members of the First Nations, creating a wide indigenous community by re-introducing a conversation not just about anthropogenic climate change but the legacy of colonial violence and issues surrounding indigenous sovereignty.

In this ongoing conversation, numerous problems can be identified all operating at once. There is the problem of insufficiently acknowledged historical Native genocide and continued misrecognition of and disrespect for indigenous sovereignty, tied up with the pressing issue of climate change, tied up with the issue of who gets to participate in the conversation. When we look at the official conversation (say, between officials of the Oceti Sakowin and officials representing Energy Transfer Partners and the North Dakota and United States government) and evaluate it according to whose interests have and have not been taken into consideration, we find that the pipeline had already been rerouted from near Bismarck, North Dakota because of concerns about drinking water, to near Cannonball, North Dakota, within miles of the Standing Rock Sioux Reservation.[74] This means that the concerns of residents in Bismarck, North Dakota were heard and responded to, but not the concerns of the people of the Standing Rock Sioux Reservation in Cannonball. The population of Bismarck, North Dakota is 92% white.[75] The population of Cannonball, North Dakota is 92% Native American.[76] It is not hard to see race as a factor in the decision not only *to* reroute the pipeline, but also in *where* to reroute the pipeline. For many Native Americans, this is only the most recent example in a centuries-long pattern colonization and attempted annihilation of the First Nations by people of European descent.

Yet, the opposition to Energy Transfer Partner's proposed Dakota Access Pipeline is nevertheless an excellent illustration of how shared interests can create community through conversation, and what it takes to maintain fairness in the conversation (if not in action due

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[74] See Hayes (2016).

[75] http://www.census.gov/quickfacts/table/PST045215/3807200

[76] http://censusviewer.com/city/ND/Cannon%20Ball

to egregious imbalances in power), despite official misrecognition. It matters a great deal that the voices of all those who will be impacted by this pipeline be heard, especially those who are most likely to personally bear the brunt of the ecological and health risks. Much of the original resistance arose because of the failure to consult those who live at the Standing Rock Reservation, coupled the intent to fast-track the project without consultation, and the use of a permit that makes it unnecessary to conduct an Environmental Impact Statement.[77] While the response from federal agencies was slow and tepid, public response was enormous, and much of it in solidarity with Standing Rock. This led to immense pressure on those federal agencies. This pressure took various forms, from writing letters to boycotts to nonviolent direct action. Many people joined the opposition at the Oceti Sakowin Camp, making the conversation more visible and more public. Many journalists rushed to Cannonball to cover the issue and show people what was going on there. Many groups offered their material and moral support, including veterans and various religious groups. This widened the scope of the conversation, and I believe resulted in the construction of valuable though finite and imperfect community bonds among the people involved in this struggle, while challenging the wider community to join the conversation and to be willing to be held accountable.

As the movement progressed, the subject of climate change, implicated from the very beginning, began to shift the conversation somewhat. The addition of many non-indigenous voices threatened to drown out the indigenous voices under a general rhetoric of environmentalist concerns that ran the risk of downplaying the extent to which the movement was also concerned with indigenous sovereignty, and with correcting historical patterns of unprovoked violence, lack of respect, land theft, and colonization, of which this incident was seen as just another instance. In this case, the conversation had to be returned to its roots through open and honest communication among the activists of all stripes that called for understanding that while solidarity was warmly welcomed, this movement was still led by those indigenous people who had been put at greatest risk and whose methods of

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[77] See, for instance, the press release from U.S. Senator Bernie Sanders August 26, 2016.

prayerful resistance and strict non-violence were an organizing principle from the beginning of the opposition.[78]

Many of these people bravely stood weaponless in prayer in front of blockades topped with razor wire, behind which heavily armed and heavily armored police forces from numerous states fired rubber bullets, concussion grenades, and tear gas. In ironic cruelty, those fighting the pipeline who describe themselves as "Water Protectors" were sprayed with water canons in sub-freezing temperatures on the days immediately surrounding Thanksgiving, a national holiday supposedly about cooperation between Native Americans and colonists, but which to many Native Americans remains a holiday that celebrates their erasure and genocide. It is also important to note the self-ascription of Water Protectors, a self-ascription that rejects the attributed label "protestors."[79] In addition to the bravery of those on the front line, many people have aided this resistance by providing supplies, financial or medical support, or by divesting their money from the banks which support the pipeline. It certainly breaks no laws to withdraw money from one financial institution and place it in another, nor is there any substantial risk in doing so.

One of the main arguments of this book is that resistance can and does take place in a number of ways, and in this variety it becomes more difficult to track, to control, and to expend resources suppressing that resistance. Not only that, but unlike violent resistance, which requires substantial physical strength and agility, and has a large psychological barrier to entry, a great deal of nonviolent resistance is accessible to almost everyone (consider the methods of boycott or general strike).[80]

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[78] See "How to Talk about #NoDAPL: a Native perspective," by Kelly Hayes. (October 27, 2016). Retrieved from TransformativeSpaces.org

[79] The Oceti Sakowin Camp was ordered to be evacuated (through an Executive Order issued by North Dakota Governor Doug Burgum) by 2:00PM on February 22, 2017. As I write this, many have left, but some have chosen to stay their ground. The physical Council Fires have been put to sleep, but these fires may remain in our hearts spiritually and forever. The resistance will continue in a variety of forms.

[80] These points are discussed in great detail in Chenoweth and Stephan's *Why Civil Resistance Works*.

What is interesting about Standing Rock as a national and even global conversation is that it shows that taking the concerns of all those whose interests were at stake into account does not need to rely on the authorities or the official channels. The absence of official recognition for the concerns of the people of the Standing Rock Reservation, as plain as it was, did not stop the wider public from recognizing their concerns and providing material and moral support, in essence joining the conversation and so the movement. The development of this conversation is responsible for *forcing* the authorities take their concerns into account on numerous occasions, despite recent breaking of promises (e.g., to conduct an Environmental Impact Statement) ordered by a patently retrogressive administration. This issue is now approaching crisis levels, and it is my sincere hope that continuing to force the public and the government to face this crisis will force negotiations once more. In our context, this means that the recommendations of discourse ethics regarding partnership in conversation applies to every interlocutor, and when necessary can and must bypass official channels to reach a wider audience which then forces the official channels to pay attention. This should be understood as a powerful tool for those whose interests are routinely ignored by official authoritative avenues. If enough people who are charged with continuing colonial violence refuse to do so, orders to engage in colonial violence will have no sway. I bring this up to point out that public conversations can take place through unofficial channels just as effectively as through official channels. Benhabib also recognizes a dual-track approach.

> In deliberative democracy, as distinguished from political liberalism, the *official* public sphere of representative institutions, which includes the legislature, executive and public bureaucracies, the judiciary, and political parties, is not the only site of political contestation and of opinion and will formation. Deliberative democracy focuses on social movements, and on the civil, cultural, religious, artistic, and political associations of the *unofficial* public sphere, as well. (Benhabib 2002: 21)

In addition to inclusion in the conversation, certain norms governing the conversation itself must also be acknowledged and enforced. Here again I am following certain features of discourse ethics as practiced by Benhabib. There are three main elements whose presence in a conversation reveals that the conversation is going as it should, and whose absence indicates a lack of willingness to understand and comprehend one another so that problems can be properly recognized, and peaceful solutions can be reached. These three features are

egalitarian reciprocity, voluntary self-ascription, and freedom of exit and association.[81] The first of these is already implicated in the demand that everyone who will be affected by the outcome of public decisions shaped by public conversations should be included in the conversation, should be able to suggest new topics, and to challenge the conduct of the discourse when it favors some voices at the expense of others. Voluntary self-ascription is needed because each of us can be understood as being members of many more than one social group, and the extent to which any of these social groupings are significant to a person varies from person to person within each of these social groups. Of course, there are limits to the recognition of self-identification, both because social significations are not determined by individuals acting alone, and because these social significations also include 'objective' descriptions of our finitude, like height or e.g. ability to jump two feet (but not thirty feet) into the air.

> There will be many cases when such self-identifications may be contested, but the state should not simply grant the right to define and control membership to the group at the expense of the individual; it is desirable that at some point in their adult lives individuals be asked whether they accept their continuing membership in their communities of origin (2002: 19).

Finally, freedom of exit and association guarantee that participation in traditions is valued or at least voluntary.[82] Of course, leaving behind a tradition might require leaving behind many other things, and this sometimes will include breaking family ties or losing certain privileges. To say one should be free to exit is not to say that one should be free to exit without some consequence, but the extent of that consequence should not be so severe as to strongly deter exit in such a way that remaining can be seen as coerced. Losing some privileges and breaking some ties, while it can be significantly costly, should nevertheless remain an option.

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[81] Benhabib provides detailed arguments about what each of these entails in pp. 11-21 of *The Claims of Culture*, esp. pp. 19-20.

[82] Right of exit entails right of entry. See pp. 172-3 of Benhabib's *The Claims of Culture*

Most public conversations will fall far short of this ideal.[83] Nevertheless we should understand these norms as being a means by which we can measure the conduct of various participants in public conversations, as well as tracking whether everyone who should be allowed to participate in a conversation is provided equal opportunity to suggest new topics, and challenge where necessary conversations that are one-sided or fixed in advance without proper consultation of everyone affected. We can also understand these norms of public discourse as illuminating a possibility, one possible to actualize if we were to enact it to the greatest extent we are capable. It might not be a blueprint, but it may provide a measuring stick.

As I believe the example of the public conversation surrounding the opposition to the Dakota Access Pipeline expressed by the Oceti Sakowin demonstrates, public conversations can create communities of solidarity among people from all walks of life. United States military veterans and (sometimes former) police are among those who stand in solidarity with Standing Rock. Religious groups from all over the world have also lent their support and prayers, and many people from various religious traditions have prayed with the people at the camp according to their own traditions in front of police barricades. Even the Pope of the Catholic Church has argued that indigenous people should be included in conversations affecting the use of their land and water, on ground of principle, and so the United States Army Corps of Engineers have acted improperly by not taking the concerns of the people of the Standing Rock Reservation sufficiently into account. Moreover, the Seven Council Fires have certainly garnered sufficient uptake in the unofficial public conversation to warrant a great deal more consideration than the present administration of North Dakota and the Executive Office of the United States is giving them. Still, this public conversation shows that a much larger section of the public opposes the pipeline than just the Oceti Sakowin. Since that is the case, ignoring and refusing to conduct discourse properly with the Oceti

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[83] Benhabib issues a warning on this topic: "discourse ethics does not present itself as a blueprint for changing institutions and practices; it is an idealized model in accordance with which we can measure the fairness and legitimacy of existing practices and aspire to reform them, *if and when* the democratic will of the participants to do so exists." (2002: 115)

Sakowin also demonstrates a lack of concern for all of those who share the concerns of the Oceti Sakowin. Here the following comments from Benhabib seem especially relevant.

> Such political struggles build coalitions by gaining the sympathy of others who come to see that the cause of the minority is just because it involves reasons that all can identify with. These would be reasons like: It is good for all to preserve the ecologically sound use of land, as the [First Nations] have done for centuries and generations, rather than to destroy the ecobalance and life-forms of human and other living beings for the sake of profits for timber or oil companies, or fishermen and hunters. (Benhabib 2002: 141)

It is also important to recognize the multitude and multiplicity of voices in this conversation. Many of those who spoke in this conversation agreed that the pipeline should be stopped, but seldom did anyone claim to speak for absolutely everyone else. In fact, Kelly Hayes introduces her article "How to Talk About NoDAPL: A Native Perspective" with such an admonition.

> This piece is very personal because, as an Indigenous woman, my analysis is very personal, as is the analysis that my friends on the frontlines have shared with me. *We obviously can't speak for everyone involved*, as Native beliefs and perspectives are as diverse as the convictions of any people. (Hayes 2016, emphasis added)[84]

Although this author does not claim to speak for others, her words nevertheless carry a certain amount of authority, and provide a much needed perspective on the situation. I think this acknowledgement is important because it shows a person speaking in her own voice, and yet despite not claiming to speak for everyone, she can be understood and acknowledged as having spoken very well, in a way that represents the views of a great number of people. It also shows how consensus on issues does not deprive individuals of their own voice. Among the people who oppose the Dakota Access Pipeline, conversations about how best to proceed and what needs to be done are conducted from diverse perspectives. Although there is a widespread agreement that the pipeline should be stopped, issues about the extent to which the courts can be trusted to rule in favor of justice and what form opposition should take are an essential part of this conversation. Despite there not being universal consensus on methods and trust in the courts, actions have been largely successful at stalling the

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[84] There are two different versions of this article. The first was published on transformativespaces.org, and is the one from which the quote is taken. The later version appeared on truth-out.org.

construction of the pipeline, expanding the public conversation about the government of the United States continuing a policy of Native erasure and annihilation, and helping the public to recognize that the current administration is deeply implicated in placing the desires of a few wealthy people before the needs of many or even most of the citizens of the United States.

But this polyvocality within and among the Oceti Sakowin and their accomplices from various walks of life also demonstrates another of Benhabib's points concerning the need to understand the operations of culture and of public discourse as fluid rather than conceiving of the operations of culture as being solidified, for instance, by everyone recognizing a shared conception of the good life.[85]

Where there is agreement about some problem to be solved, coalitions can be formed by people who may lack comprehensive conceptions about what makes a good life. These coalitions may not count as communities, since these coalitions would not be necessary if they did not have some opposition within a community. Coalitions are trying to convince communities to adopt their proposals for solutions to problems, proposals that may not be taken up by the entire community. Some agreement is of course necessary for successful collective action, but this agreement need not include anything like entire worldviews or conceptions of the good, even where coalitions form around grave importance. As Standing Rock demonstrates, people from all walks of life have come to stand together on this issue because they believe in *this* cause, not necessarily because they believe all the same things about what the purpose of human life is, what gods do or do not exist, or how humans can best come to know themselves and express their creative potential, or what it means to flourish. This also does not mean they cannot share beliefs about all of these things; it simply

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[85] Taylor suggests something to this effect on p. 61 of *Multiculturalism and Toleration*. My own view here is that history and context matter more than the having of a shared conception of the good, when it comes to identifying commonality and community. All that is needed is a concern for the way our practices affect people, not necessarily a judgment about what makes a life good. For instance, feminist solidarity is possible among people from many walks of life. In addition, questions about how best to form this solidarity, and what feminism is and ought to be, are ongoing conversations which include people who have different visions. This does not make collective effort to combat the unequal treatment of women impossible, but can itself be seen part of that collective effort.

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demonstrates that such things are not necessary in order for there to be a community in the sense urged here.

Another aspect of the fight against the Dakota Access Pipeline worthy of consideration is how it has made more people aware of how everyday practices can contribute to oppression. The movement to divest from banks which support the pipeline has historical precedents,[86] but it is also a great example of showing people how they can take steps to distance themselves from this oppression even if they for whatever reason cannot engage in more direct nonviolent action. In addition, many of those who divest in banks supporting the pipeline end up opening accounts with local credit unions, in turn supporting their local communities more than they were previously. It also incrementally weakens the infrastructure of monopolistic financial institutions which have been known to cause financial crises in the past. I believe that the issues surrounding Standing Rock are such a good example because they show a great deal about how to create public conversations and solidarity around a wide variety of issues all at once, despite variations in perspective and a multitude of voices.

I believe Standing Rock is a genuine crisis. It provides a crisis of identity for the United States, forcing it to confront its legacy of colonial violence. It also provides an opportunity for the United States to make good on its promises of freedom, promises more often neglected than fulfilled. The actions at Standing Rock have brought the crisis to public attention, and since properly conducted negotiation still does not seem to be on the table, I believe that this situation will only continue to be resisted until the situation is crisis-packed enough for negotiations to begin anew. There is also the possibility of the United States once again enacting a policy of Native annihilation, and the question in that case is whether or not we will allow our own government to pursue that policy by not throwing monkeywrenches into the machines of their power. It also shows how everyday practices, like who one banks

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[86] Divestment was one strategy for combating the system of apartheid in South Africa. See

http://www.nytimes.com/roomfordebate/2013/01/27/is-divestment-an-effective-means-of-protest/divestment-was-just-one-weapon-in-battle-against-apartheid

with, have serious consequences, and reminds us to look carefully at the ripple effects of our own individual everyday practices.

Normative change comes about through changes in social signification and gradual shifts in practices and normative attitudes, but it can also take place in times of extraordinary crisis, where numerous operative norms are simultaneously challenged. These operations of normative change often work in tandem. Knowing this means understanding the importance of patience and longsuffering to bring about the subtle changes in attitudes required for large scale public acknowledgement of problems and the means of solving them, but also knowing when it is time to place one's body in harm's way in order that another may be spared, or in order to bring greater attention to grave injustices and cause crises that will force negotiations.

6. Conclusion: Questioning Community

I hope to have shown in this chapter that the concept of community is at least contentious. The essential contestability of culture, and that of community is not something to mourn. Although it is possible for people to come together for a common cause, and although there is already a wealth of human knowledge and experience from a variety of traditions, we need not understand people as being defined by these traditions, at least not without the caveat that people within and across traditions trade information, knowledge and experience with one another.

I also hope to have shown why it is reasonable to be suspicious of claims to represent cultures and traditions as monolithic wholes. Generalizations about traditions and cultures are troublesome because they attempt to present a unified narrative about the origin and meaning of the tradition, ignoring the many processes through which this tradition came to be solidified. These processes include the disputes about the meaning and interpretation of experiences, as well as the traditions they arose from. Benhabib calls attempts to represent cultures as unified, monolithic wholes that admit of uncontroversial descriptions 'the reductionist sociology of culture,' and I agree that it is to be avoided. The reason it is important to recognize the diversity of voices and opinions is that by looking at the

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perspectives of various people within traditions, false generalizations about entire groups of people are more difficult to maintain and perpetuate. Additionally, we have argued for the need to recognize greater diversity within particular social and political movements, in order that the success of those movements does not depend on ignoring or covering over differences of opinion within those movements.

At the same time, if dispute and contestation within social significations of traditions and practices is common, then when there are significant numbers of voices who agree on what the issues are, this lends more credence to that harmony of voices. This is why Standing Rock is such an interesting example: Although there are discussions within the movement about the best ways to proceed, and the methods that are most proper to employ, there is widespread agreement among indigenous people and their allies all across the globe, that this pipeline should not be built. This is where there is somewhat of a problem with the idea of a global community of interdependence. Although it is true that in the global situation, ecosystemic changes in one part of the world create ecosystemic changes in another, Benhabib's more cosmopolitan leanings can come into tension with political movements that are explicitly tied to sovereignty over the land. This is something Benhabib freely admits.

> I see two challenges to this vision of cultural plurality and democratic contestation: cultural differences that are rooted in ways of life attached to the land and fundamentalist movements that abhor hybridity and deny cultural complexity. (2002: 184)

Both kinds of cultural differences have important implications for the twenty-first century. The latter kind of movement is one with strong roots in the United States, roots which are spreading. In the United States we still struggle with the legacy of white supremacy, slavery, genocide, and violence. This is so much part of the identity of the United States that there are concerted efforts to sustain it and to reestablish it in cases where it has lost its hold. Such movements are terrifying and dangerous. We must uproot these movements and starve them of soil. Cultural differences that arise with respect to how to treat the land, as well as how to manage it (e.g., which foods to grow, how to manage forests and waterways, etc.) are another battleground that raises issues of indigenous sovereignty and food sovereignty. The issue of food sovereignty is an interesting case where coalitions have formed in the international

community, recognizing "the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems."[87]

However, Standing Rock is also an example of the importance of local sovereignty. In food sovereignty movements across the world, the concern is for ethically raised and culturally appropriate food, and the movements include indigenous people as much as forest dwellers as much as peasant farmers as much as urban dwellers living in food deserts. Being rooted in a way of life that is attached to the land, where it forms a major part of one's voluntarily self-ascribed identity, is not worth trading away for a cosmopolitanism that makes it easier for global corporations to continue to exploit resources and create the conditions under which indigenous activists are murdered.

The question then, is how to balance the need for local sovereignty in food and water with the need for freedom of exit and association. This question will become increasingly important if the present human habits of consumption and resource exploitation continue unchecked. One finds interesting analogues between movements for food sovereignty in eastern Europe, northern Africa, and many parts of Asia and the United States. Ways of life that have been sustaining human life for centuries do not include merely religious or political institutions (indeed ways of life that actually sustain human life are often hampered by these institutions), but also agricultural traditions and traditions of land use and stewardship. By conceiving of traditions in overly institutional ways, we can forget the macro- and micro-economic means with which we actually sustain human life.

More interestingly, where there is a large agreement despite a variety of traditions, this too is something to look at very closely. For instance, Standing Rock demonstrated solidarity from a great variety of traditions. Food sovereignty movements are similar in generating solidarity among people from a wide variety of traditions. This is how public sentiment is shifted, and this shift in public sentiment makes it possible or impossible to implement social change.

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[87] Declaration of Nyéléni, February 2007, See <https://nyeleni.org/spip.php?article290>

This chapter has been dedicated to working out a conception of community as constituted by conversations consistent with a multitude of voices and perspectives being available within those conversations. We also highlighted the norms by which such conversations should be governed in order to serve goals of democratic inclusion and recognition. The only addition to Benhabib's account of the norms of public discourse I suggested is a stronger recognition of the historical contexts in which these conversations arise, which provides insight into which groups of people have especially been ignored or whose perspectives have been the subject of erasure. The next chapter will look toward practices of social signification as they relate to moral perspectives, and the variety of moral perspectives that results from moral orders' placing people in different social locations and unfairly distributing responsibilities and rewards to various people within that moral order.

Chapter 3 Morality and the Social Order Itself

1. Introduction

So far, I have argued for all of the following:

> 1. Norms operate in virtue of social pressure to conform to them (Chapter 1.3)
>
> 2. Many (if not all) of our social performances are assessed according to their conformity to norms or standards (Chapter 1).
>
> 3. While many of these norms are explicit, norms must also be recognized as being implicit in practice, expressed by attitudes revealed in normative assessments of particular performances (Chapter 1.2).
>
> 4. Those assessing are also assessed by those assessed, i.e., these assessments are made of one's own actions and of the actions of others, by oneself and others (Chapter 2.2)
>
> 5. These assessments have objectivity built in as a structural feature of assessments, where 'objectivity' is construed as the ineliminable possibility of getting things (facts, actions, feelings, concepts) wrong (Chapter 2.2)
>
> 6. The notion of community in phrases such as 'norms of a community' must be understood as an essentially contestable concept (Chapter 2).

This chapter is dedicated to exploring the simple claim that no particular set of moral practices, no institution, is beyond critique and possible improvement, from within or without, though it may form and inform some contestable community or present social arrangement. If social arrangements are not monolithic, static entities, then the question becomes how best to understand their simultaneous stability and dynamism. This understanding can then be used to modify existing practices in ways that can contribute to their improvement, with a goal not of perfection or unity with an ideal, but merely continual improvement. I want to use this thought to suggest that social evolution—the intentionally directed moral evolution of selves and societies—is brought about by modifications of existing practices alongside the introduction of new alternative practices that are meant to improve our contestable communities and social arrangements. Changes in attitude tend to

precede changes in institution. Changes in attitudes can be brought about in a number of ways, but one way is through exploring narratives that display a situation from an underrepresented angle, which may result in changes in the assessment of some practice, tradition, or group of practices.

One social arrangement that displays many of the features I want to highlight is marriage.[1] All cases of marriage involve social background conditions, with interesting similarities and differences among those conditions. There is much variety in how and which institutions and individuals recognize which marriages to be legitimate, and in attitudes about which marriages ought to be regarded as legitimate. Institutionally, marriages are recognized by states, religions, and families, in many cases all at once. Sometimes a marriage is recognized by a religion but not by a state, as has happened in the United States with polygamy. Sometimes a marriage is recognized by a state but not by a religion within it, as has happened in the United States following *Obergefell v. Hodges* in 2015. Sometimes a marriage is recognized by a state and by a religion, but there are still hold-outs. An individual may, for whatever personal reasons, refuse to acknowledge the legitimacy of a certain marriage, despite official recognition from friends, family, and the state. While the person who has this attitude and the actions that it inspires may not affect anyone else's recognition of that marriage, if this rejection comes from someone close, like a parent, it can nevertheless have a strong normative impact on the familial relationship.

While the rituals surrounding the marriage ceremony also tend to vary considerably, marriage is nevertheless recognized as similar enough, for the most part, for proper application of the term. What Wittgenstein said of number I want to claim applies also to marriage:

> And we extend our concept of number as in spinning a thread we twist fibre on fibre. And the strength of the thread does not reside in the fact that some one fibre runs through its whole length, but in the overlapping of many fibres. (*Philosophical Investigations* § 67)

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[1] Changes in practices of recognizing who is a citizen is another interesting example. In the United States, for instance, Native Americans were not granted citizenship rights until 1924, and these rights did not extend to voting rights in all 50 states until 1948.

Is there such a thing as an "essence" of marriage? Many debates about modifications in marriage law hinge on particular answers to this question. However we answer this question, marriages can for the most part be identified by long-standing overlapping series of practices with family resemblances similar enough to go by that term. Of course, marriage has also served historically as an economic arrangement for domestic affairs, one in which powers, responsibilities, and prerogatives are unevenly distributed. It has also served as a political arrangement, forging political alliances and unifying certain groups, though that practice is less frequent today. Practices of marriage do not everywhere involve choice on the part of all those married. Economic arrangements can be made by parents without the consent of the bride and groom in some circumstances. In the United States, what makes marriage equality important is not necessarily a recognition of the importance of the economic aspect of marriage, but an official recognition by the state of the deeper similarities in love, devotion, sharing, and affection between same-sex couples and heterosexual couples. Despite this tremendous variety of practices surrounding marriage, we rarely have problems identifying who is married to whom, even if we do not know everything about the marriages we recognize as legitimate.

Return to the thought that social arrangements such as marriage have various background conditions. These background conditions constitute what I call, following Margaret Urban Walker, a social order.[2] If we understand community to be constituted by conversations of concern, then we need to specify the scope in which we intend to use the term 'community,' as well as that of 'conversation.' The scope of the phrase 'community' generally is complicated, precisely because of the complications introduced in chapter 2, following Seyla Benhabib. Is a philosophy department at one small university an instance of a community? Perhaps. There are conversations about who it is and what it stands for, conversations about what problems it faces and what needs to be done about them, and conventions for recognizing who is a member and who is not, as well as what status each member has. Various people within the community of a university philosophy department are held to

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[2] Walker (2007, 56).

similar expectations, perform similarly, and their performance is evaluated according to those standards. Not only that, but social ties and bonds of relationship form when any group of people work together on similar projects for extended periods of time. Yet, the social practices that make possible the existence of this university community issue from a wider community still. The wider community of academic and professional philosophy can also be seen as one kind of community, for it is this wider community who together provide the standards according to which individuals in particular professional philosophy departments are held, in which recognition is distributed, and the wider community of academics generally upholds the tradition of there being departments of philosophy.

Of course, things are even more complicated than this. Returning to the thought expressed by *Philosophical Investigations* §67, the concept of "professional philosophy" is woven together by the overlapping of many fibers.[3] Again, the concept acquires its strength not from having any one fiber running through the whole, but from the overlapping of many fibers. Overlaps and intersections make for diversity within the whole, where disagreements about what is considered proper subject matter for philosophical theorizing or philosophical description make frequent appearances. Declarations of specializations, membership in learned societies and special committees, and participation in certain conferences structure the identities of individual philosophers, more so than the generic term, 'professional philosopher.' In addition, affiliations between philosophers themselves, such as those between students and their advisors, and through generations, 'schools of thought,' provide even more fine detail to this picture. At a general philosophy conference (for instance, the American Philosophical Association annual meetings), we often find these identities expressed in the kinds of panels and presentations given, the nature of the questions the audience members ask, and even in the names of organizations themselves (e.g., the Society for the Study of the History of Analytic Philosophy). Student organizations, graduate student unions, faculty unions, and university administrations define still further affiliations, and set certain terms for the practices through which we conduct higher education. I feel it is

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[3] Thanks to David Stern for encouraging me to further explore the complexity of my example in this paragraph.

important to stress that standpoints informed by social role and class status render conflicting interpretations of the mission and status of higher education, as well as what kinds of performances are proper to which roles. What might be called the "shared social life"[4] of higher education is not merely the cumulative, but also normative result of vast intersections and overlaps in the practices of all of those who are invested in it, complete with all the various identity markers, intentional memberships, implicit norms, and conflicting interpretations involved in that shared social life. To be a professional philosopher is to be entangled somewhere in a vast network of social roles and practices, some of which one might support, and others of which one might be wary.

Beyond the contestable community of academics, the kind of community that is usually spoken of in communitarian literature or literature of culture and moral communities is wider still, usually referring to nation-states or tribes or religious affiliations or nationalities. As a synecdoche, we might suggest that such communities are formed by 'communion.'[5] As Benhabib points out, in addition to these social identity markers, there are other social identity markers, such as race, class, and gender. These latter kinds of identity markers are also the product of social practices that are self-replicating, and which result in various intersections and overlaps in (intentional or structural) community membership. Sometimes one 'belongs to' a community in virtue of sharing a struggle.

In addition, where community does not exist as a conversation, it can be brought into existence, wherever people come together with a common concern and a goal to organize and see to that concern. And once we recognize that we can have communities as small as a philosophy department and as large as a nation or even the population of all human beings in the world, we can see quite clearly that each individual is going to be a member of various communities and interestingly, that individuals are going to identify with certain aspects of their social group status more than others. By social group status I mean the ascription of social group membership ascribed to a person in the manner indicated in Chapter 2.

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[4] For more on this concept, see p. 17ff, this dissertation.

[5] On this comparison, see Nancy, *The Inoperative Community*.

Members of communities are capable of competently making their way about in the places they inhabit, a matter of understanding and applying conventions surrounding any given circumstance that might arise for a person in the particular society in which one finds and defines oneself. In addition to competently getting about, one can also have a critical understanding of the practices of one's particular group. A person may be well versed in the conventions of what it is to be a professional philosopher, and understand what is expected of one in order that one become a professional philosopher, but nevertheless have several reservations about the way in which professional philosophy is done, and is taught. One might even comply with the conventions of being a professional philosopher, while being critical of those very conventions. Calling for improvement in these conventions does not always require going against them entirely, but can involve merely suggesting modifications of those conventions, for their improvement. In any case, communities can be understood as being constituted by conversations about their conventions and the propriety of those conventions.

Beginning with the claim that communities are constituted by continuing conversations of concern for who we are, what we stand for, and where we are going, we can explore the implications this has for our own (historical and contemporary) practices of theorizing in moral philosophy, as well as for our own political traditions. The diversity of standpoints from which one might learn about one's heritage, combined with a closer look into how one experiences and comes to know morality, when taken seriously, challenges the notion of a once-and-for-all moral standpoint outside all standing human practices. It may turn out that a certain kind of standpoint, envisioned by many moral theorists, is impossible. Yet without the impartiality often believed to be a result of taking a standpoint outside all human practices, one might be tempted to conclude that morality is just parochial people talking past one another about the value of their own particularly situated normative practices.

One who concludes thus is misled. The fact that different people experience their social and moral surrounds differently because of being placed differently within them does not mean that there is no such thing as moral knowledge; it only means that different people are aware of different facts in virtue of their social location and so have differentiated moral knowledge.

While no one has the whole picture, everyone has a piece of the picture. In other words, while no one knows one's social and moral world as a whole and so should not claim to, this does not mean that "nobody knows anything morally," just that "differently placed people know different things in fact."[6]

Walker's view, which I endorse, does not dispense with the objectivity or truth of moral claims as do some relativists, or the possibility of knowing moral truths as do some moral skeptics and nihilists. The view advocated here reaffirms objectivity but shifts the angle at which we approach it. Rather than focusing on an hypothetical impartial spectator, we should aim to bring about incremental improvements in the conceptual resources of the situated morally competent agent, who recognizes personal limitations in knowledge but who is willing to learn and be corrected by other, differently situated morally competent agents whose competence is recognized in common. Objectivity then consists in recognizing the ineliminable possibility of getting things wrong, as individuals, and as communities, and in recognizing the partiality and incompleteness of our own standpoints. It also consists in recognizing and properly appreciating socially significant facts, requiring close attention to and inspection of the community-level conversational practices by which collective decisions are reached, as well as the actions they purport to justify.

On this conception, objectivity becomes the work of seeking out and appreciating views from a wide variety of standpoints, so that moral accounting can begin, within and among contestably identified communities. This view fosters fully public comparative analysis of claims to moral knowledge entered by individuals from various social locations within social-moral orders. This comparative analysis must look closely at the amount of influence each person has on collective decisions that will affect a great number of people, and which people have what kinds of influence. The answers to these questions often show that the epistemic practices have been rigged in favor of some at the expense of others. Objectivity requires opening and comparing moral accounts for moral accountability. Pursuing transparency can reveal places where this kind of epistemic rigging has taken place. Epistemic rigging, another

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[6] Walker (2007, 6).

term developed by Walker, is the practice of denying people opportunities to express themselves and discounting their experiences.[7]

The next chapter will explore ways in which normative practices can be modified even while some elements of these practices are retained. This process of replication and modification of cultural capital is important to understand. It plays an important role in the replication of our practices, and it can account for both the stability and the dynamism that we find in actual living human communities. By focusing on the consumers rather than the producers of authority and culture, we can recognize that there is a wide variety of attitudes about authoritative practices. Not only that, but we can begin to understand the ways in which everyday practices are modified and changed. It also brings to view the power of change that lies the hands of the everyday average cultural consumer. We'll also look at ways of engaging in civil disobedience that have not been given sufficient attention in civil disobedience literature, and whether certain acts of resistance should be properly regarded as violent. Monkeywrenching, a practice in which vigilantes render certain equipment ineffective, for instance by draining oil from earth movers, or by nailing spikes into trees where areas are intended to be clear-cut, is often regarded as violent, in virtue of its destruction of property.[8] In addition, we can provide reasons for returning the question, that is, whether clear-cutting forests, for instance, should be regarded as violent, in virtue of destroying habitat for millions of animals, often killing many at once in what might be understood as a massacre. Our answer will demonstrate what we value more.

In that chapter I will make clear why I prefer the phrase 'nonviolent resistance' to 'civil disobedience'. We will also explore a puzzle that arises from two claims that I have been advancing: (1) that there is no authority without some kind of explicit justification, and (2) that much of what we take for granted cannot be made fully explicit, despite the fact that much of what we take for granted appears to us to ground our moral understandings.

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[7] Walker (2007, 6ff).

[8] For a fictional treatment of this practice, see Edward Abbey, *The Monkeywrench Gang*. Among those who classify destruction of property as violence, see Ann Cudd, *Analyzing Oppression*, 87.

Solving this puzzle will involve outlining where justification is a necessary and reasonable demand for initiating or continuing some practice, and where demands for justification are inappropriate or ill-informed.

2. Social-Moral Orders and Community-Constituting Conversations

Recall our model of community in which communal norms are widely recognized and acknowledged by community members as being in force, that is, as being enforced, but which also leaves plenty of conceptual space for a variety of attitudes regarding those norms acknowledged as being in force. When we say that norms are acknowledged as being in force, we are saying that compliance to them is expected and that noncompliance will be met with criticism and sanction. The variety of attitudes one can take towards the norms of one's community ranges from acknowledgment coupled with endorsement to acknowledgment coupled with revulsion and repudiation. These attitudes often reveal themselves in different kinds of behavior and different kinds of accepted justification for certain behavior. In societies, responsibilities are distributed to people according to roles they occupy, which are socially and legally defined, such as father, mother, disciple, priest, judge, police, and so on. This distribution of responsibilities and liabilities is uneven, and varies with respect to the role one occupies. The guard and the prisoner, for instance, have entirely different sets of prerogatives, permissions, liberties, and liabilities, and this in virtue of the roles occupied by each. The seriousness attached to rules, norms, and laws functions to set expectations, and structures of authority serve to provide counsel, experience, and justifications for actions undertaken collectively, and for common expectations. In these conversations of justifications for authority, or for collective action, it is important to pay close attention to who is addressing which justifications to whom, and whether those justifications are negotiated or accepted by all who will be involved or affected by these collective decisions. The example of Standing Rock serves, I believe, to illustrate the point that whose concerns are heard and whose ignored reveals very real moral truths about distributions of sovereignty and respect, and that social recognition need not only come from institutions with say-so. It also demonstrates that shifts in public sentiment begin to turn the tide, but that they must be combined with action in order to be efficacious.

The norms acknowledged by a community make for a shared understanding of expectations, responsibilities, commitments, and prerogatives. When they are taken as underlying a social order, they constitute what Walker calls the 'moral understanding' of that community:

> When moral understandings are 'shared' their force in defining responsibilities and prerogatives is recognized in common; this need not mean that they are endorsed by all or exist by the consent of those who live them, nor that all understand the same things about how they are maintained, and who bears their costs or reaps their benefits (2007, 7).

If I am right to follow Walker in understanding communities as being composed of people who recognize in common certain socially defined responsibilities and prerogatives, whatever their attitudes about them, then the concept of community as I modeled it in Chapter 2 following Seyla Benhabib appears similar in some ways what Margaret Urban Walker calls a 'social-moral order' in her work *Moral Understandings*, but different in others. Different communities, it seems, can coexist within the same social-moral order. Essentially the question is one of scope: If, for instance, the set of customary norms of international law creates some kind of social-moral order, then particular communities are a proper subset of one massive social-moral order. But Walker's use of the plural 'moral understandings', and her general aversion to universalist claims, warns against this interpretation. We might then ask: Is a nation-state a social-moral order? Perhaps nation-states are social-moral orders, in the same way that nation-states form 'communities'—that is, nation-states are communities, if 'communities' are understood as internally divergent in self-understanding and practices of recognition, and if, within these nation-sized communities, there are still smaller communities in which shared concerns bring people together to discuss the merits of some proposed or ongoing practice. The same does not appear to be true for social-moral orders. Rather, social-moral orders determine the places everyone is to occupy and the work they are to do, as well as their epistemic status and level of initial credibility. Like a director's call "Places, everyone!", at which call everyone assumes some respective 'place', social-moral orders set the stage for "Action!" There are likely trans-national social-moral orders, as well as national and regional ones as well.[9]

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[9] I would like to thank Professor Asha Bhandary for pressing me to make clearer the similarities as well as the differences between these two concepts.

Wherever a moral understanding (in the above sense) is efficacious, a social-moral order is in place. Walker uses the term 'social-moral order' to point out the inseparable connections between social and moral normativity, to remind us that moral norms "inhere in and are reproduced by interactions between people," and that "moral orders are concretely embodied in social ones."[10] A social-moral order is constituted more or less by its shared moral understanding—the acknowledgement of the standing norms in place and the social order those norms actualize—yet within a social-moral order there will be a wide variety of attitudes, experiences, and understanding as to how or whether that social order works for everyone whose life is shaped by it. It is important to understand that this is not a matter of explanatory priority, for moral understandings inhere in social ones and vice versa: "It is not only that moral understandings intertwine with social ones, but that moral understandings are typically effected *through* social ones" (Walker 2007, 17).

One point Walker emphasizes throughout all of her work is the need to explicitly politicize practices of moral theorizing within moral philosophy, for its betterment. Looking at the backgrounds of many moral philosophers in Western history, it becomes easy to see that their reflections on universal human morality are readily susceptible to being merely reflections of the prerogatives and interests of their own social group, i.e., those of a certain class, race, gender, and heritage. Noticing the ill fit between espousals of universal human rights in juxtaposition with narratives about the savagery and inhumanity of the numerous victims of colonial genocide and slavery, some moral philosophers' claims to fully general moral knowledge or objectivity might appear more than a little questionable. Moreover, while in theory it might be convenient to distinguish moral principles from the practices that appeal to those principles, and then discuss the moral principles absent the practices they purport to justify, in practice this might only cover over rather than expose failures in those justifications, where people exploited by standing practices are barred from challenging these justifications. On the other hand, if we begin at the level of evaluating our practices directly,

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[10] Walker (2007, 11). I believe Walker uses the terms 'social order,' 'social-moral order,' and 'social-moral surround' interchangeably.

including their effects, then I believe we can better question places where practice defies or elides reasonable principle.

It is also important that we not attempt to identify moral communities or social-moral orders by 'shared' sets of judgments about 'what makes a good life'; rather, we need to identify them by sets of practices that are efficacious and which determine the lives people can live within them, that is, the results of conversations about who 'we' are. The scope of this conversation is just as variable and contestable as the scope of the term 'community' itself. Nevertheless, it is important to think of the kinds of conversations that constitute communities in a way that not only does not trivialize it, but also clarifies it. For this reason, conversations that constitute communities should have some kind of temporal duration, long enough to have established shared terms for discussion, as well as (disputable) standards for the proper application of moral reasoning. As I have stressed, the existence of some widely acknowledged norms within a community in no way entails that these norms are endorsed by everyone to whom they are thought to apply.

In other words, although we might recognize communities by the shared terms through which individuals within them navigate their social order, to share terms "means only that their force in defining responsibilities and prerogatives is recognized in common; this much defines a moral community or culture" (Walker 2007, 69). Here we would do well to recall Benhabib's critique of certain assumptions about cultures, namely, that cultures are not to be understood as thoroughly unified, homogeneous, monolithic wholes in which the common goals are shared by everyone and endorsed by everyone within them. Being born into a community does not always entail having a pro-attitude about one's community or culture, although this does frequently happen. Communities may also be disrupted by civil war and other kinds of social strife. Leaving behind one's community is not an easy decision, not only because of the psychological difficulty of interrupting meaningful relationships developed within that community, but also because in many circumstances the 'choice to leave' was no choice at all. Community as defined here is different from the concept of being 'at home,' in that questions of what is home, who gets to feel at home, and how to make oneself at home, are part of that conversation constituting the community itself.

3. Contradictions Among Commitments in Communities

Here there may appear to be a problem. If communities cannot be clearly identified by shared sets of attitudes, worldviews, or judgments about what makes a good life, then how are they to be identified at all? From my claim that communities cannot be identified by shared sets of attitudes, it does not follow that communities cannot be meaningfully identified at all. It only follows that their identification does not consist in discovering shared sets of judgments, attitudes, or worldviews, and that where identified, communities should be understood neither as clearly delineable wholes nor as internally homogeneous. Instead they should be viewed as dynamic, with permeable membranes and negotiable boundaries. This makes their identification slightly more difficult and contestable, but far from impossible. Communities can be identified wherever there are conversations about who we are, where we are going, and what we stand for.

Now, the existence of some community-constituting conversation in a particular case does not at all imply that any or even most participants in this community-constituting conversation are attempting to appreciate and understand everyone's interests and voices equally, or are taking everyone's experiences equally seriously.

By locating the importance of conversation in the constitution and maintenance of communities, we can arrive at desirable conditions for conversation that may allow for collective actions to be better collectively decided. In my view, communities begin with concerns. Shared concerns among individuals make for coalitions of individuals who similarly identify and attempt to address shared concerns. Coalitions conflict, and communities are constituted by conversations among various (often conflicting) coalitions about collective action and collective identity, where coalitions weigh in on, merge, and disperse according to mutual concerns (that need not share all the same background conditions or beliefs).

If communities are constituted by these kinds of conversations, and dialogue is better in a conversation than a monologue from someone who speaks too much and listens too little, then monological conversations (like King's example of southern racism) reveal places where

epistemic injustices have been done. Epistemic injustices include ruling people out of a conversation through claims of their incompetence. Throughout the United States history, there is a long-standing tendency to devalue and denigrate testimonies of Native Americans upon whom the United States government conducted a genocide and erasure. This genocide pretended to be justified according to narratives of inferiority of Native Americans, which, given the state of the land prior to European invasion and after, is quite a laughable concept, were it not so utterly tragic.

Another instance of epistemic injustice is that visited upon women, which purports to justify many aspects of their oppression. Until very recently in human history, for instance, women were not even granted access to the university, because they were regarded as incapable of university work. Narratives still circulate about the essential passionate (and therefore irrational) nature of women or Native Americans or Native Africans, and such narratives epistemically devalue victims of oppression (as part of the practice of oppression itself) and can render people socially incapable of registering their own claims.[11] These kind of epistemic injustices, where effective, function to hide systemic injustices from view, fostering the complicity of those who fail to resist these injustices, while simultaneously purporting to justify the acts of those who engage in these systemic injustices. By revealing narratives to have committed epistemic injustices, we shift distributions of credibility, at the same time revealing certain unrecognized truths about purportedly justified practices. This in turn affects attitudes about those practices, as well as the credibility of those who rely on epistemic injustices to claim justification for (now recognized) systemic injustices. Slave narratives, for instance, serve to demonstrate in clear terms the cruelty and lack of humanity of that system.[12] Challenging cultural tropes by altering and reframing narratives is also a recurrent theme in the work of Diana Meyers.[13]

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[11] See also Walker (2007, Chapter 7), who provides an incisive discussion of the notion of necessary identities.

[12] See Frederick Douglass, *Narrative of a Life of a Slave*, and Harriet Jacobs, *Incidents in the Life of a Slave Girl*, for examples. For Walker's discussion of Jacobs, see Walker (2007, 133ff).

[13] See Meyers (2002, 5ff).

In better circumstances, conversations about what needs to be done can take place on equal footing, with mutual respect, and in which topics may be introduced by anyone. This is not always the case. Before conversation partners can be treated as being on equal footing and being given mutual respect, they have to be conversation partners in the first place. Sometimes entry into the conversation is not granted to everyone who rightfully has a place. Rather than a dialogue, these conversations constitute some kind of monologue. When faced with this kind of monologue, the question is how to gain any entry into the conversation in the first place.

Sometimes in order to break into the conversation, we have to break the conversation down. Breaking down the conversation so it can start over often requires large scale stoppages in going on as we have before. The presumption, even of a monological community-constituting conversation, is that we will go on as we have before, and as we are expected to, unless and until some rather large problem surfaces. When those who should be listening do not, it is time to make a problem surface. This is where nonviolent resistance comes into the picture. By shutting down the conversation, that is, making it clear that 'we' will not simply go on as we have before, 'we' can force those who speak too much and listen too little to come to the negotiation table ready to listen.

Claims about nature or necessity, then, often play a role in forming putative justifications for social arrangements. Hans Sluga, too, reminds us that such claims often underwrite oppressive practices. He explores the following question to make this point: what exactly is 'natural' human sexuality? What 'unnatural'?[14] And who gets to decide? Who is an authority in what natural human sexual behavior is? And how is that authority established? Our use of 'natural' here is normatively loaded, and people's opinions are often shaped by knee-jerk reactions, and by encouraging them to remain knee-jerk reaction, that is, not to reflect on them, and to presume to know. If, on the other hand, we encourage epistemic humility in moral discussions, perhaps people will be more open to listening to experiences that challenge their own understanding. Epistemic humility of this kind requires recognizing that

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[14] Sluga 2014, 43ff.

our own understandings, however rich and full we may take them to be, are partial and incomplete. Objectivity on this understanding may be seen as the search for a more complete picture with an openness to new information and a willingness to be held accountable. Recognizing this partiality and incompleteness of moral knowledge is part of Walker's moral epistemology as well.

The situated, partial moral epistemology Walker advances calls into question assumptions about the nature and scope of moral knowledge that she finds prevalent in philosophical moral theory. She also identifies normative constrictions for moral inquiry.

> Something this epistemology supposes we do know is that prevalent or authoritative assumptions will shape the direction, practice, interpretation, and results of inquiry, and that social powers can render some people's assumptions arbitrarily prevalent or undeservedly authoritative in inquiry as elsewhere. So this epistemology needs both an understanding of the actual production of knowledges that communities credit and normative standards (at least, necessary conditions) for good epistemic practice. (Walker 2007, 65)

This kind of epistemology recognizes the need for questioning our own practices of attributing (epistemic and political) authority, particularly in those practices that render some experiences less visible. Experiences, when voiced in ways that contribute to the collective knowledge and ongoing narratives of a moral order, can challenge the justification of practices that require epistemic disqualification to function. That these experiences are made public, that is, brought into the public sphere, makes them have a far greater chance of success in shaping public sentiment than when they are kept to oneself or expressed in private. Walker claims that having a public voice is a crucial component in this process. Yet where no public voice is given, it is important to remember that one's own voice still can be developed, and when ready, made public. It is also important to note that a voice can be public even where standing powers refuse to acknowledge it. What is key is that (some portion of) the public does.

> A public voice is 'louder,' more audible or audible to more people, than private complaint. It is more durable and tangible too, able in some forms (for example, written ones) to persist as documentary evidence. More than this, a newly public voice of subjected people is itself already a change in the configuration of epistemic community, of who can say and claim to know. It may not by itself confer credibility, but it is an opening wedge. (Walker 2007, 176)

Walker points out that as soon as a few people who had been forced into bondage in the United States learned to write (often illegally) and were able to acquire a platform to share their experience, the credibility of the supposed justifications for slavery bandied about by people who directly benefitted from it began to crumble. An essential part of this was the slave narrative, which revealed and made public the extent of the horror visited upon human beings by their fellow men, as well as how a person can nevertheless retain a sense of dignity in the face of this horror. It turns out that in order to retain credibility, those who attempted to justify slavery had to silence, keep ignorant, or epistemically disqualify their victims through a variety of narratives, some "religious," some "scientific," but all self-aggrandizing, factually inaccurate, and morally reprobate. Not only that, but they kept their victims from pursuing the ability to express themselves fully, perhaps knowing (at some level) what the implications for public sentiment of revealing their experience would be.

Similarly, as more and more women acquired a platform to share their experience, the credibility of the supposed justifications for the "woman's place" bandied about by those who directly benefitted from it likewise continues to dwindle, though there is much work yet to be done. In this case, too, reliance on arguments from "religion" and from "nature" in the justification of this subordination were and continue to be frequent. Arguments purporting to justify marital rape or domestic violence have shrunk and continue to shrink before the light of full publicity, and have largely become recognized for the pale excuses of male violence that they are. The point is, those who benefit from exploitation know that if the voices of those whom they exploit are given equal weight to their own, then their purported justifications of their exploitive practices will be exposed for the farces they are. This is why part of the strategy of oppressors is to control the narrative. In other words, when practices of doling out epistemic credibility are rigged against the oppressed, it is all the more difficult but all the more necessary to change the minds of people about the propriety of these kinds of assignments of credibility.

When taking a close look at these community-constituting conversations and the social-moral orders they produce and reproduce, we should not be surprised to find, as Benhabib

says, that they are "internally riven by conflicting narratives."[15] Rifts will often appear, for instance, between the avowed principles that are taken to ground a certain kind of practice within a community and the actual practices of that community. For instance, many claim that the United States was founded on principles of the right to life and liberty. Yet, it simply cannot be denied that it was also founded on practices and explicit policies of conquest, genocide, and slavery. Here is a case of clear conflict between avowed principles and actual practices, a conflict that did not go unnoticed, even in the revolutionary period.[16]

We will also likely find conflict among our principles themselves, or what we take them to entail as opposed to what others will understand them to entail. Continuing with the example of the United States, we can view genocide and slavery either as a conflict between principles of liberty and practices of subjugation, or as a conflict between two principles: one according to which everyone should be treated equally and another according to which differential treatment is not only permissible, but among behavior permitted in that differential treatment is forced sexual exploitation, dehumanization, destruction of culture, massive land theft, frequent torture, unprovoked violence, and indiscriminate murder, including mass murder. Either way, there is a clear conflict here.

The necessary work of recognizing and rooting out these contradictions begins, I believe, once we properly appreciate differences in knowledge and experience among people who live a shared social life, and take that as the starting point of serious moral inquiry. Now, when we speak of the shared social life, there are various factors other than simply that we are engaged in conversation with one another. For instance, there are geographical limitations on what can be a community, as well as linguistic ones, and sometimes political ones as well, although it must also be recognized that in the age of the internet global conversations are increasingly frequent. While we can imagine a community of all the human beings on earth,

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[15] Benhabib (2002: ix).

[16] See Benjamin Banneker (1792), "Copy of a Letter from Benjamin Banneker to the Secretary of State, with His Reply." Philadelphia. *Eighteenth Century Collections Online*. Gale. (The Secretary of State in question here is none other than Thomas Jefferson.) See also C. Mills, *The Racial Contract*.

we do not all speak the same languages and so do not share all the same terms, and may not always be able to understand one another. But we must also recognize that there are possibilities of translation, and that rare is the case that something in common cannot be found. In a community like a state or a small town, we can understand one another, we do share terms that we acknowledge in common as standards for reasoning and evidence, and we more or less recognize in common that these standards license confidence in the judgments that are the outcomes of our conversations. We cannot expect universal agreement about the best kind of life any time soon, but the possibility of recognizing and responding to more or less universal human needs and the conditions of human survival on this planet, as well as the nature of that survival, appears to the author more likely to be attained. This may aim toward eventual cosmopolitanism, but for now the focus might need to be on more particular geographical and historical events, needs, and problems.

To sum up, when we speak of a shared social life, we are not necessarily referring to one particular way of doing things or one particular set of practices, but rather the sharing of terms through which we can navigate and negotiate the changing responsibilities of our common life. Examples of communities of this kind include the nation-state, but we might also consider a tight knit group of friends who look out for one another, who hold one another accountable, and who spend a great deal of time together, to be a community. In this group of friends, we should not expect that even they share all of the same beliefs or 'comprehensive worldviews'. If, on the other hand, we were to identify communities by presuming communal agreement in judgments about a majority of issues, we would run the morally pernicious risk of projecting a whole onto a diversity in a way that privileges those whose lives most identify with the narrative that underwrites the 'whole' while bulldozing the diversity. By calling for better, more inclusive moral conversations, various possibilities arise for reconciliation and normative change, and this in turn raises the moral possibility of transforming a community for the better. Restoring faith in one another, resolving conflict, eliminating contradictions, and improving our principles as well as our practices will require the widest possible participation of people from the widest variety of backgrounds, and a willingness among all in this process to be held accountable, to admit fault, to recognize our

inevitable limitations and numerous failures as persons and as coalitions in conversation within a community.

4. Problematic Identities: How Communities Identify Their Problems (and Themselves)

The last section began by raising the apparent problem of identifying communities in accordance with the conception of them I developed in Chapter 2. The answer to the problem of identifying communities involves conceding at some level that it is a problem. But it is a practical and political problem, not merely a conceptual one, and it is a problem of extreme moral relevance. One need not look far to find the kinds of conversations I have argued constitute communities of concern. These conversations are about many different topics, often all at once, including: what problems 'we' face; what needs to be done about them and by whom; who gets to do what to whom and why; who is a member of which group; what it means to be a 'member' of this or that group.

Whether or not these conversations are one-sided (monological), I have argued that it is these kinds of conversations that constitute communities. A conversation might be called monological if there are certain coalitions that remain unheard and unheeded. But of course there is much more to the story than merely the conversation. We must also be aware of the conversational conditions and conventions, such as those of attributing knowledge, recognizing expertise, attributing authority, acknowledging power, or ascribing identity, and how these practices determine nearly every aspect of our lives, from banal things such as how to fill out a form, to matters of grave importance, such as who is allowed to be killed by whom.

This means we should approach the problem of identifying communities from a political perspective that focuses critical attention on the moral understandings of particular social orders (including and especially our own), and the intergenerational, interpersonal, historical, cultural, and other narratives that support them and that they support. For this is ultimately a question of who gets to participate in the formation and continuation of those practices by which we decide who we are, what problems we face, where we are going, and what it is for which we will and will not stand. And the answers to these questions have

important implications for the legitimacy of the authority of the practices of any living human community.

This is part of why Walker wants to challenge typical forms of moral epistemology. She argues extensively that there is no pure core of moral knowledge.[17] All of our own moral knowledge is partial and incomplete, which means getting a fuller picture requires checking our understandings against those of others, and learning from the testimonies of people from a wide variety of backgrounds. In order to challenge the understanding of moral epistemology as a scientific enterprise aiming at a pure core of moral knowledge, we need to question the model of reasoning on which it seems to rely. Instead of probing our introspection for intuitions, and then following nonempirical logical relations among them, we should be looking at how we actually justify our own actions and those of others in real-time situations, and under what conditions we offer our reprobation and rebuke. A change in epistemic orientation is thus necessary.

Walker wants us to recognize that morality, and theories about morality, develop out of particular social structures. She lays particular emphasis on the fact that many of those writing texts in political philosophy come from very particular social places within a social hierarchy that stratifies society according to (among other things) race, class, and gender. Early modern philosophy in the Western tradition—at least what of it makes its way into many philosophy classrooms in the United States today—reflects a jarring lack of diversity, mutual understanding and acknowledgement in this regard. Walker argues that morality and moral theory do not stand outside of or prior to human social practices, but are rather produced and reproduced by them, and that human social practices invariably appeal to and develop moral concepts in order to reproduce and attempt to legitimize themselves to those over whom their authority is presumed to hold.[18] The legitimacy of authority is thus a function of the extent to which justifications of the authority of some moral practice can

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[17] Walker (2007), *Moral Understandings*, Chapter 2.

[18] Walker (2007, 4).

tolerate full exposure to the public, that is, whether and to what extent some ongoing social practice can survive tests of transparency.

What are tests for transparency? Well, if we recognize the differentiations in moral experience, judgment, and knowledge that arise as a result of being differently socially placed within a social order, then bringing these differentiated experiences into the public sphere allows for the situated critical moral self-evaluation of, and reflection on, our own social orders themselves. Walker reminds us that "Critical reflection presses toward transparency" (2007, 12). Moral justification requires transparency that is the result of critical reflection. Walker views moral justification "as a kind of equilibrium that can survive the transparency that reflection produces" (2007, 9).

Why does transparency matter? Transparency matters because it is a demonstration of good faith. It is a demonstration of trust and respect for the persons over whom norms are meant to apply. A lack of transparency reveals some sort of distrust in those over whom some norm would apply, insofar as it does not trust people to recognize the validity of the reasons that purported to justify the norm. It also demonstrates a lack of mutual respect, insofar as those to whom the norm is meant to apply are not respected enough to have been given the actual justification. And often there is something even more foul afoot. Justifications may be hidden from those over whom a norm is meant to apply because it is recognized that this justification would not stand up against the testimony of those abused by a norm, were that testimony to be heard. Demands for transparency take root when we recognize an inappropriate difference in credibility between those enforcing a norm and those upon whom a norm is enforced. Testing the 'official' public justifications of certain moral orders against the actual experiences of a variety of people placed in a variety of different moral situations, where successful, has the potential to create a trust, and to maintain it. Further, these tests will either yield more transparency and thus more trust, or will reveal that certain justifications only stand in the absence of credible critique. Some aspects of some social-moral orders will survive these tests of transparency, but many others will not. Walker highlights the connection between having differentiated standpoints within a social order and the distributions of responsibility and credibility they underwrite and support.

> Where supposedly shared moral understandings do not match distributions of responsibility, where socially dominant roles and identities are elided into constitutive ideals of moral personality and responsibility, or where de facto moral understandings legitimate diminished and ascribed identities for some kinds of people, it is a task of moral philosophy to render these arrangements transparent for moral evaluation. (Walker 2007, 33)

Tests for transparency take off from comparing the public justifications offered for a particular social order with the recognition of a variety of standpoints from which that justification might be evaluated, and involve allotting credibility where required so that previously marginalized voices can be heard. Challenges to his social order can come from within that social order itself or from its margins.[19] Voices arise to challenge narratives about the origin and justification of certain practices. Among things tested are: consistency between principle and practice, consistency between different elements of some of our practices, the practices of assigning responsibilities, acknowledging expertise, attributing authority, and so on, by everyone in a social-moral order who is expected to be subject to the standing norms of these social-moral orders.

Aspirations toward transparency can be understood as expressing a hope for truthfulness, in ourselves and in those with whom we interact in navigating our social worlds. At the level of the individual agent, it amounts to having engaged in a certain amount of honest self-reflection, where we are willing to admit to ourselves and others where we have fallen short. When we have fallen short, when promises have been broken, duties left undone, or trust betrayed, we have what might be called moral remainders. Truthfulness in our personal interactions involves discovering what moral remainders there are in our interactions with others, and how we can remedy them. While none of us has access to every moral truth, we all have access to some, and everyone of us likely knows areas of our own lives where we can improve in our interactions with others, and in discharging our responsibilities. I would think it is so for communities as well, although recognizing places where we can improve as a community will require a great deal of contestation and dialogue.

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[19] See Naomi Scheman on the concept of privileged marginality in "Forms of Life Mapping the Rough Ground." in *The Cambridge Companion to Wittgenstein*, (eds.), Hans Sluga and David Stern. Cambridge University Press, (1996).

At a social level, transparency is an evaluation of distributions of responsibilities, and the distribution of them that arises out of what I called in Chapter 2 'social grouping practices.'[20] As Walker reminds us, "The ideal of transparency is at once a moral and epistemic one; it can take thinner or thicker interpretations, but any interpretation will embody some moral perspective or tradition" (Walker 2007, 79). She gives an example of Western feminism as being rooted in moral ideals of modern Western social thought. It "makes gendered arrangements visible" and recognizes that "'official' conceptions of moral agency, judgment, and responsibility devalue or disqualify other forms of agency, judgment and responsibility that make the official ones possible in actual social life" (80).[21] Sometimes these corrections themselves need further refinement and correction, but this is one telling example of subtle normative changes brought about through changes in practices of acknowledgement and recognition.

5. What Sort of Ethical View is This? What Sort of Moral Epistemology Does it Entail?

Walker's view is simultaneously meta-philosophical, meta-ethical, and meta-epistemological, while not losing sight of the implications of her view for everyday practices and everyday justifications of those practices, whether they come from moral philosophers, religious leaders, or political pundits. Given the reach of her model, it can sometimes be hard to track the exact moral view Walker is trying to advance. Walker develops her view out of challenges to the authority of certain epistemic practices in moral philosophy, and the assumptions about the nature of moral knowledge and moral truth that those practices rely upon: the idea that there is a "pure core of moral knowledge," which according to Walker makes the following assumptions:

> It assumes that the moral reality, realm, nature or structure is something accessible and determinate quite apart from anyone's acquired experience of them, and that the moral philosopher can tell when she or he has grasped these things as they really are apart from his or her thoroughly tutored and cultured experience of them. (Walker 2007, 5)

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[20] See Chapter 2, Section 3, this dissertation.

[21] Cf. Baier (1995); Gilligan (1982). Gilligan is often criticized for overgeneralizing the moral experience of 'women,' taken as a whole, but see Heyes (1997) for a defense of Gilligan that highlights Gilligan's disclaimers.

Instead of following this model, which Walker calls the 'theoretical-juridical model' of morality and moral epistemology, she advances what she calls an 'expressive-collaborative' model of morality and moral epistemology. According to her model, morality is "a socially embodied medium of mutual understanding and negotiation between people over their responsibility for things open to human care and response" (2007, 9). In this description of morality, there is both the activity of morality, which is to seek mutual understanding and negotiation, and the domain of morality, which is all of those things open to human care and response. For Walker, the core of morality is found by tracking responsibility, and responsibility can be tracked by looking to practices of assigning, accepting, and deflecting responsibility, that is, who can get away with doing what to whom, and who has to do what for whom.

> Practices of responsibility are constructive; they may reproduce existing terms of recognition or they may shift them. In other words, morality consists in a family of practices that show what is valued by making people accountable to each other for it. (Walker 2007, 10)

This kind of reasoning seems to license the claim that morality is a variable human construction, and this can give rise to some confusion. Some might claim that morality being a human construct makes it somehow less real or somehow less important to focus on. This could not be further from the truth. Its being constructed by humans makes it no less real than other human constructions, such as atomic bombs, the anthropogenic acceleration of climate change, farms, cities, and other socially significant artifacts. In making these kinds of claims, Walker might be interpreted as being in the camp that Samuel Freeman (2013) calls 'moral constructivism.' Although Walker does not explicitly identify herself as a 'moral constructivist,' she does frequently use terms such as 'constructive' and 'construction' in setting out her view.[22]

Moral constructivism is different from moral realism in that it does not posit antecedent moral facts or moral values "prior to and independent of practical reasoning."[23] It is different

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[22] Walker 2007: 10, 27-8, 30, 36, 44, 60-67, and so on.

[23] Freeman (2013, 7).

from moral skepticism in that it does not deny that there are moral facts, and affirms that some normative judgments are true and others false. It is different from moral relativism in that it does not deny an objective basis for moral judgments; instead it locates that objectivity in public practical reasoning. Freeman goes on to say that moral constructivism requires a public basis of justification, i.e., standards for justifying practical and collective action, and a condition of full publicity, according to which the public basis of justification is known and accepted by all of those to whom it is meant to apply.

The example of a moral constructivist view that Freemen uses to draw the distinction is Rawls' *Theory of Justice*. Freeman claims that this Kantian variety of moral constructivism does not work. What causes trouble is the idea that there can be *congruence* between the requirement of a public basis for justification, and that justification being fully public and accepted by everyone to whom it is meant to apply. Moral constructivism of the Kantian, Rawlsian variety, in order to meet the condition of full publicity, requires each citizen to acknowledge as correct the conception of the person as morally autonomous. But this conception is not accepted by many traditions frequently regarded as reasonable, both philosophical and religious. Moreover, reasonable utilitarians might reject the claim that it is necessary that everyone know and endorse the public basis of justification. People in religious or philosophical traditions that do not endorse autonomy might find the public institutions this conception would recommend to be just, but they would still reject the fully public justification of those institutions (in virtue of that justification being inextricably tied to positing the morally autonomous agent). According to Freeman, it is recognizing this fact that led Rawls to shift from what Rawls calls 'Kantian moral constructivism' to his later political constructivism in *Political Liberalism*.

Of course, this particular problem does not seem to arise for Walker's variety of moral constructivism. That a particular public justification of a social order may not be able to survive full publicity is precisely one of the points Walker is trying to make. Walker's brand of constructivism emphasizes the ongoing assignments of responsibility and how they are maintained and shifted, and when they are illegitimate, why they need to be challenged. She does not appeal to a generic model of moral agency and autonomy to make her case.

Walker's version of moral constructivism does, however, seem to demand full publicity of certain moral understandings. Yet this version of the demand for full publicity arises out of the necessity of testing whether public justifications of certain social orders can survive transparency tests and critical scrutiny from standpoints rooted in all of the various social locations it makes possible and actualizes.

To get at this point in the right way, however, we need to modify the sense of 'full publicity' away from Freeman's use. For Freeman, full publicity is the condition that everyone has access to the actual (as opposed to the ideological) public justification of certain moral claims and acknowledges that justification as correct. While it seems to me that this kind of exposure is what Walker is trying to urge us to effect, Freeman questions whether it is possible in this world to create a public basis for justification where that justification will be acknowledged, understood, and endorsed by all. In other words, the difficulty appears to arise on the assumption that participants in public justification arrive at negotiations with fully formed internally consistent conceptions of the good against which they may compare with one another. This assumption seems inconsistent with Walker's epistemology of partial and differentiated standpoints.

The way full publicity, or something like it, appears to be characterized in Walker is not necessarily about contractual arrangement among hypothetical moral agents with access to all the relevant information—or anything implying only the prerogatives of contract-makers, as in theories of the social contract—but through examining the lives made possible and the voices heard or discounted within a particular social order. Proper negotiation of commitments among members of social orders will have to involve quite distinct epistemic standpoints, and this will shift certain burdens of proof. Unlike the moral constructivism Freeman criticizes, Walker's version is not based on a pure core of moral knowledge or its underlying methodology. Her "expressive-collaborative model of practices of responsibility invites detailed and situated descriptions of the expectations and negotiations surrounding assignments of responsibility."[24]

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[24] Walker (2007, 17)

While I appreciate Freeman's discussion of the available of metaethical positions, in the context of his discussion, he is entirely too rooted in various notions that Walker would find not only unnecessary but undesirable, such as the idea of social contractors comparing fully articulate conceptions of well-ordered societies, where these conceptions are internally consistent. What more often takes place in public political discourse than discussions about conceptions of the good, are discussions about what problems we face and what needs to be done about them, and here overlapping consensus is less difficult to find, although there may well exist some intractable differences. On my view, a moral conception is feasible if it can lead to improvement, not necessarily the resolution of all conflicts. And in this regard, still some moral conceptions fare better than others. Walker's conception of morality as tracking responsibilities is an attractive way of understanding the appropriate aim and practice of moral philosophy, because once we have tracked responsibilities, we may learn enough to more appropriately distribute them.

In addition to tracking responsibilities, this kind of moral epistemology draws attention to social locations where moral agency and knowledge do not fit well into the theoretical-juridical model. There are morally competent agents inextricably rooted in social relations they value deeply, or who value self-sacrifice more highly than self-interest. Agents might be quite morally competent in terms of understanding their social relations and what is expected of them, whereas they fare less well in self-interested utility-maximizing calculations or in staking out social space for claims to personal autonomy. This does not mean that they lack moral competence; it rather means that their moral competence is of a different kind than that espoused by utilitarians or certain versions of Kantian moral theory.

Freeman appears to advance an uncomfortable dilemma for the contractualist, a stripe of moral constructivism that closely resembles Walker's,[25] but which avoids the problems of Kantian constructivism. This dilemma has to do with who is justifying what conduct, and to whom, on this conception. If public justification is to provide standards by which reasons for actions can be assessed in shared terms, then the question is whether the agents who are

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[25] See T. M. Scanlon (1999), *What We Owe Each Other*. Harvard University Press.

constructing the standards that legitimize moral reasoning must be understood as hypothetical agents who have all of the relevant information and make all of the right deductions, or whether they ought to be understood as everyday agents whose knowledge is necessarily limited and incomplete and whose reasons are partial to themselves and others about whom they care deeply, and whose inferences and understanding of the facts are sometimes misguided. If they are hypothetical agents, then agreements can likely be reached, but that agreement appears to add little to the justification of a social order, insofar as it relies on hypothetical, as opposed to real, agents. If they are situated agents with partial knowledge, then were agreement to be reached, that would add a great deal to the justification of a social order: the problem is that such agreement, if not impossible, is exceedingly unlikely.

Freeman seems to think that in order for constructivism to work we must rely on the judgments of hypothetical agents in ideal situations of mutual recognition and respect, agents who display all of the characteristics of the essentially rational person as modeled throughout the majority of modern philosophy in the Western canon. Through these hypothetical contractors, philosophers can discover which views are internally consistent by finding agreement among hypothetical agents, while they might have to acknowledge that this agreement appears to add little to the justification of a social order.

While Freeman is right to raise the question of who is explaining whose reasons to whom, I find his choice of the hypothetical agent dubious. Still, it seems as though we are faced with the dilemma of whether we would rather choose a proof procedure involving standards that would work in ideal conditions but which we cannot expect to be acknowledged by everyday people in everyday situations, or an imperfect proof procedure capable of improvement, which is very unlikely to yield widespread consensus because it is subject to the vicissitudes of real life agents in real time. For my part I prefer the more stringent proof procedure that requires acceptance from everyday people and calls for continual improvement. I find suspect appeals to a proof procedure that would settle disputes for all time as it were, but only in ideal circumstances.

More generally, there is a strand in Freeman's thought which I find slightly troubling. It is the idea that since people do not come to the public table with comprehensive worldviews replete with articulated conceptions of the good which are systematic and internally consistent, and which unify entire systems of beliefs for particular agents, we must construe the society-constituting dialogues as taking place between hypothetical reasoners all of whom reason well. In these conceptions of the good or comprehensive worldviews, each part is just as essential as the next. The main problem with this way of constructing the discourse is its reliance on the idea in order for there to be dialogue, there must be dialogue between systematic and completely articulate entire worldviews. By requiring a hypothetical fully reasonable agent who has thought through all of the commitments and entitlements of all of that agent's particular beliefs and who has systematically rooted out any contradictions among those beliefs or mismatch between beliefs and practices, we restrict the moral conversation considerably. Very few such people exist, if any. Rawls even admits this in *Political Liberalism*.[26] The fact that people don't have comprehensive worldviews that are completely articulated is actually a good thing for public discourse, because it can reveal places where people are open to new information, or willing to retract certain claims.

Pressing toward transparency in moral theorizing requires exploring experiences within social orders. This moral epistemology also calls for a review of the methodology of certain moral theorists, where the object appears to be to begin with 'our' moral intuitions and explore nonempirical logical relations among them. Walker's alternative moral epistemology places much larger emphasis on analogical and narrative reasoning. This is a major shift in how to understand the moral reasoning processes of many agents, including those who advance their moral theories according to the theoretical-juridical model. Walker's alternative model is justified by offering us reminders of practices of everyday moral reasoning.

> The greater part of moral reasoning will… be *analogical* and *narrative*. Analogies test how like or unlike new cases are to familiar or decided ones. Narratives are stories that show how a situation comes to be the particular problem it is, and that explore imaginatively the continuations that might resolve the problem and what they mean for the parties involved. (Walker 2007, 72)

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[26] See Rawls, *Political Liberalism*, Part Two, Lecture IV, esp §6ff.

Once we explore the narratives that underwrite our particular social orders, we can begin to evaluate their credibility. There certainly are narratives that underwrite the practices of moral theorizing in the twentieth century, many of which, seen in this way, appear to be capable of improvements in self-awareness. It is important to notice that many philosophers are apt to take their own positions as authoritative and in many cases do not even feel compelled to argue for that authority or claims to have moral knowledge. In addition, their claims to universality and objectivity, coupled with a lack of self-awareness about the socialized origins of their own 'moral intuitions,' can lead to all sorts of problems stemming from a lack of epistemic humility. Moral philosophers unaware of these problems are apt

> to parade fact as necessity, historical contingency as eternal condition, norm as nature, social construction as nature's way, endorsement as disinterested depiction, concordance among peers as objectivity, and their own often questionable positions to know as positions of expertise, even 'scientific' ones. (Walker 2007, 27-8)

It is the operation of these very narratives that hampers reflection and distorts attempts at transparency. Part of making our own practices of moral theorizing more transparent is to involve ourselves in just this kind of self-critique. It also allows us to see how various kinds of social orders replicate their own patterns of attributions of authority and the acknowledgement of standing normative practices. Reliance on narratives to support our normative practices appears inevitable, but evaluating these narratives is one of the most important ways we can press for transparency and expose fraudulent justifications of malicious practices.

In addition to calling for more pressure for transparency and hope for truthfulness in the justifications that we give to ourselves and others for our practices, I also think this is a potent test of credibility. Transparency in the operation of institutions is a hallmark of credibility, because it shows those involved with the institution that the institution is a collaborative endeavor meant to benefit all who participate in it. Where there is a lack of transparency, there is often something foul afoot.

6. The Social Order Itself

Let us recall the claim I attributed to H. L. A. Hart as I interpret him, that norms which are taken most seriously are thought to impose obligations, and this is because they are thought to underlie the social order itself.[27] In other words, the insistence placed on conformity to a norm is at least sometimes proportional to the extent to which it is seen within a moral community as underlying that particular social order itself. If this is true, then social orders—where they can be identified—are maintained through the operation of normative pressure to conform to the moral and other norms in the various standing practices of a particular moral community. As Hart and Brandom also stressed, this pressure can come in a variety of forms that fall short of physical reprisal: reminding offenders of norms when violated, arguments that appeal to respect for the norm violated, appeals to conscience, and so on.

Yet, if rules and their supporting narratives underlie a social order, then it might turn out that the value of a social order itself can be found by examining the value of its most importantly regarded rules. While I think something like this is true, once we understand the claim in what I think is the appropriate way, we will no longer frame the issue in terms of wholesale valuations of entire social orders except in exceedingly rare circumstances. These rare circumstances include extreme cases like slavery, a prominent example of a practice which most accounts of morality consider to be morally unjustifiable, regardless of 'how' it is practiced.[28] In our day there are still exceptional examples like this (exploitation of children as soldiers, for instance). But more often we must be wary of appeals to wholesale generalizations about entire social worlds, as Walker warns.

> We may be wrong in our confidence, or vain about our epistemic prowess or moral enlightenment. We can surely be unwise, unreasonable, irresponsible, arrogant, or

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[27] Chapter 1, Section 5, this dissertation.

[28] Indeed, the notion that slavery can potentially be morally justified by utilitarianism is often taken as one of the primary *objections* to that view: that such a view could justify slavery is taken to count against it, and many utilitarians respond to the objection by altering their accounts so that the particular form of utilitarianism they endorse does not in fact justify slavery.

> malevolent in making these judgments in certain contexts or to certain ends. It is our task to try to be sure it is not so. (Walker 2007, 242)

This is why often we must be more cautious and conduct more piecemeal evaluations, engaging with one another regarding particular practices within ('our own' and 'their') longstanding traditions, as opposed to attempting to make wholesale evaluations of entire traditions themselves (again, not least because they often cannot be unproblematically identified), in order to recognize potential common topics of fruitful discussion. And it seems to me, given what has been advanced regarding the composition of social orders, that within any social order different individuals are placed in different roles, personal, social, epistemic, and economic, any of which might be called into question from any of these various social places and perspectives, with varying credibility. The example that comes to my mind here is employers' unwillingness to address concerns about working conditions raised by workers until those workers force conversation by withdrawing their labor. Denying some people participation in the process of forming, reforming, and reinforcing our social practices does not bode well for the justifiability of continuing in those practices. If this is where we begin, we might be able to alter our practices while retaining what valuable lessons we have learned from tradition, whether we learned these lessons from our successes or from our failures.

Still, we must be wary of using terms like 'moral community' and 'social order' wholesale and without explicitly specifying the sense in which they are intended to be taken. I argued in Chapter 2 that we must take these terms as signifying nothing other than the practical efficacy of certain normative practices, without implying either clear divisibility of (moral) communities, or total unity of (moral) communities. We instead need to understand the term 'moral community' as being picked out in particular cases by particular moral conversations—so there will be numerous moral communities, including communities within communities, communities overlapping, criss-crossing, and intersecting at various points—and we can evaluate community-constituting conversations by evaluating the conduct of these conversations, according to the various discursive norms also discussed in Chapter 2, including egalitarian reciprocity, voluntary self-ascription, and freedom of exit

and association.[29] Freedom of exit and association, of course, is more of a political and cultural than conversational norm, and as such perhaps should not be included in what counts as constituting the kinds of conversations that make communities. However, the condition of freedom of exit and association is more the idea that people should be allowed to decide whether or not they wish to associate with or exit a particular culture, religion, or geographical region. But individuals should, when dissociating from some group, seek potential communions in which they might better flourish.

If a conversation that constitutes a community is one-sided (monological), this reveals a problem of legitimacy for that moral community and its norms of standing practice. This is because such conversations are usually one-sided as a direct result of certain people being excluded from the conversation, that is, because there are voices within the community that go unheard, whether because they are theoretically disqualified as knowers and agents, or because efforts have been made to maintain the appearance that there is no controversy in the justification of a particular social order (often both). Exclusion can be legitimate, as in cases of incompetence, but we must be just as wary of over-attributing incompetence as we are of over-attributing competence.

Avoiding monological community-constituting conversations requires teaching people to develop their voices and doing our best to be sure that we are actually hearing them when they speak. We all need a voice not only in the sense of the social standing to speak and be heard, but also in the sense of a *vote*, which shares the same etymological root as 'voice'. By 'vote,' I mean to express not only the idea of political enfranchisement—the 'right to vote'— for citizens in democratic nations (if any such exist), but also in the sense of having a meaningful voice and vote economically, socially, politically, and morally—that is, having a voice as having a meaningful *say* in what is going on in one's social environment. If this is true, then it is clear that we have much more work to do in increasing the diversity and redistributing the credibility of voices heard.

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[29] Benhabib (2002, 19-20). Cf. Chapter 2 Section 5, this dissertation.

Not only must there be fair participation in these community-constituting conversations, which require political and economic enfranchisement as a bare minimum, in order that there can be negotiations rather than struggles, but conversations should allow space for new questions to be posed, and allow space for challenges to the accepted rules of the conversation.[30] Sometimes negotiations will break down, and struggle will ensue. These struggles arise when the credibility of public moral justifications of practices or our practices themselves are in question, and these questions cannot be appropriately answered by reprisals, violence, coercion, or deception. To take such desperate actions only hastens declines in credibility. In this way burdens of proof can be shifted to would-be authorities, burdens which cannot be borne by sheer demonstrations of violent or destructive power.

7. Questions Within and About Frameworks

It is important not only that we all be allowed to ask questions within a social framework but also that we be allowed to ask questions about that social framework itself. For instance, rather than asking which way to organize the nation-state is best, political philosophers and other social theorists might ask whether the nation-state is really the best framework from which to understand and organize the vicissitudes of socially significant human interaction. They might even ask whether the nation-state, as such, is even a good idea, and if so, what if anything justifies it. (This question was posed much more frequently in the early modern period of Western philosophy than it appears to be posed today.)

If, on the one hand, a political inquiry begins with the idea that "obviously" the nation-state is morally justifiable, a good idea, and actually the best framework from which to understand and organize social life, then the question becomes simply which way of organizing the nation-state is best. But if, on the other hand, inquiry begins into whether other forms of social organization than the nation-state are possible, and what they would look like if so, whether there are historical precedents for these forms of social organization, and how to instate and improve them, then the investigation is on an entirely more lateral and fruitful

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[30] Cf. Benhabib (2002, 36ff).

track. It might turn out that the nation-state is best. But it might also turn out that there are various other ways of socially organizing large-scale human activities, which might allow human beings to grow and flourish in ways we could not predict or even imagine when we saw beginning with the nation-state as 'obvious'.

The concept of the nation-state is meant here only as a local example of how a framework (in this case, a recurrent framework in political philosophy) might be questioned. The point I intend the example to make is not necessarily that we should question the supposed necessity of the nation-state (though perhaps we should), but to show that while it is true that conversations cannot happen without occurring within some apparently fixed boundaries, these boundaries themselves are flexible and fungible; and these boundaries can be modified by the conversation itself. Some things will hold fast even as others give way.[31]

This is a double-edged sword, for better conversations can give way to worse ones, just as worse ones can give way to better ones. Part of recognizing the contingency of our moral practices is also recognizing the fragility of our better moral practices. Progress, sadly, is not inevitable, but rather up to us. Transformations of community come about through modifications in the replication of already ongoing practices.

To sum up, within social orders there is dispute, genuine differences in knowledge and experience, and differences in moral competence, but this does not mean that social orders or moral understandings or moral communities cannot be meaningfully identified. It simply means that where identified, neither complete separation from other moral communities nor total inward unity should be projected upon the loose groupings so identified. While it is true that within moral communities, norms of standing practice serve to regulate behavior, solve coordination problems, and provide lives some semblance of structure and stability, it is important to note that they do this by dividing up tasks and responsibilities, powers and privileges, and this distribution is also tied to the roles people have or are allowed to occupy, which are far from politically or morally neutral. While regulating behavior, solving

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[31] This is a major theme in Wittgenstein's *On Certainty* as I read it.

coordination problems, and providing lives semblances of stability have some value, this value can be (and often is) offset by the uneven division of responsibilities, privileges and powers within a social order. Disparities in realizable social possibilities between people in certain social roles within a social order. Coordination needs to be cooperative in order to achieve collective goals. Sometimes this coordination results in better circumstances than would obtain in the absence of this coordination. But the question should be: Can our coordination, collaboration and communication be improved? Typically they can, and it would be worth trying.

The reason it is important to understand this division of moral labor is that to occupy a role is not only to have proprieties of performance determined in advance for one, but also to have a certain restricted range of socially realizable possibilities determined for one. One's social role often determines what is possible for a person to actualize within a social environment, although there are numerous exemplary stories where people persevere in spite of tremendous barriers to public self-expression. Whether anyone should have to bear such burdens is a different question. Mrs. Rosa Parks is a very good example of somebody who was treated as a second class citizen, but who knew she was as a person and who was not afraid to demand that her dignity be respected. Some social locations such as white privilege allow for the realization of a number of different possibilities, while others, such as those who face extreme poverty, allow far less possibilities and come with far more obligations, responsibilities, liabilities, and restrictions. Analyzing the narratives that support the existence of these social roles is one way to give them exposure in ways that might call their credibility into question.

Chapter 4 Social Models, Nonviolent Resistance, and Civil Disobedience

1. Shared Terms, Not Shared Judgments

Chapter 3 ended by summarizing the claim that social orders and moral communities can in fact be meaningfully identified, provided we stake out their identifications with a series of disclaimers about lack of unity in conceptions of the good, social perspective, personal experience, historical orientation, self-understanding and consistency, levels and kinds of competence, and so forth, and emphasizing the need for transparency and reciprocity in the negotiation of obligations open to human care. The idea is that communities can be found where terms of evaluation are shared through which people purport to justify or evaluate the actions of themselves and others, and through which obligations are articulated and modified. While the judgments of individuals might not be universally shared, the terms through which these judgments are formulated and defended must be shared in order that discourse may proceed:

> "So you are saying that human agreement decides what is true and what is false?"--It is what human beings say that is true and false; and they agree in the language they use. That is not agreement in opinions but in form of life. (Wittgenstein, *Philosophical Investigations*, §241).

Wittgenstein's phrase 'form of life' has been interpreted in various ways.[1] As I interpret *Philosophical Investigations* §241, agreement in form of life need not be anything more than sharing a language in which to communicate, but beyond that, the various subtle cues of nonverbal communication through which we attempt to understand one another as well. Agreement in form of life can then be consistent with agreement and disagreement in opinions. Although Taylor quite rightly pays a great deal of attention to the importance language, it seems to me that he regards agreement in form of life to be rather more like agreement in opinions when he suggests that communities share comprehensive doctrines or notions of what makes a good life (cf. Taylor 59ff; this dissertation, Ch. 3.2). The sense of

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[1] For discussions of how *not* to interpret Wittgenstein's phrase 'form of life', see Erman and Möller, "What Not to Expect from the Pragmatic Turn in Political Theory," and Anat Biletzki, *(Over)Interpreting Wittgenstein*.

the term 'community' endorsed here is inspired by my interpretation of 'form of life,' where shared frameworks make possible disagreement and its resolution. The overlap of shared beliefs is less essential than the ability to express and respond to the expression of beliefs, and the establishment of standards by which one is willing to be held as the standard by which to hold others. But I have also claimed that morality also requires an understanding of history, and the drawing of boundaries, as well as the reasons and actions behind the "maps" as they are. These boundaries have been drawn in the exercise of force, and do not often correspond to the ways in which human communities form (e.g. drawing rectangles on maps and calling them states rather than noting the difference of those who roam, those who live in the valleys, those in the desert, those in the mountains, and those who lived on the lakes. Nevertheless as a result of these mappings, we may perhaps properly call states communities, which underscores the usefulness of theorizing communities as consistent with considerable internal dissent. Examples of communities, then, would include nations, universities, scientific associations, nongovernmental organizations, international groups, cities, states, towns, and even neighborhood associations. This means that communities will overlap significantly and affect one another, and particular individuals may be members of various communities at once.

The negotiation of moral understandings through shared terms (but not shared experiences or shared judgments) is difficult not least because of the following three factors, each of which occurs frequently within moral communities:

> (1) the importance most of us attach to acting morally and upholding moral norms,[2] i.e., our sense that the inculcation of moral conduct is crucial for the stability and security of society and
> (2) the fact that differently situated people have different (sometimes incomplete) understandings of what morality demands of people, while nevertheless sharing means of communicating and calibrating their own experiences and judgments with those of others.[3]
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> Taken together, (1) and (2) suggest that
> (3) We each attach particular importance to some interpretation of how morality holds social bonds together, and each interpretation available terms to justify or criticize actions. If

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[2] See this dissertation, Chapter 1 Section 5; Chapter 3 Section 5.

[3] See this dissertation, Chapter 1 Section 4; Chapter 3 Sections 4-5.

> someone fails us in some way, we might reproach them, but we do so in the hope that the one who is criticized accepts the grounds for criticism as reasonable.

In other words, the seriousness we attach to the moral ideals that we take to underlie the social order, while providing some stability, also has a liability. The liability is that we can sometimes mislead ourselves or be misled into inappropriately coercing others to comply with the judgments of our own particular moral understanding rather than engaging in discourse with them to determine whether our own understanding may have gone wrong. For some social orders and normative communities, the too-quick move from discourse to enforcement happens very frequently. When this occurs too frequently, it compromises the credibility of a particular way of understanding morality.[4]

I join Walker in arguing that whenever our own social order has to rely on coercion or deception in order to 'convince' people to cooperate with it, to that extent its credibility is weakened. Recognizing that available moral discourse can be appealed to for a variety of aims need not imply that we view them all with the same level of credibility. We rightly expect moral claims to be rooted in an account of who has done what, what was expected and was it reasonably so, and we expect accuracy, sensibility, and frankness in these accounts. When inaccuracies, omissions, and threats begin to emerge, credibility ought to decline. As credibility declines, cooperation should be made harder to obtain.[5] For those who desire the cooperation of those with whom they have strong disagreements in moral judgments, the perceived need for coercion might increase, but if they given in to this perceived need, the result can often be a downward spiral in the credibility of a social order such as a state. An institution whose credibility is in decline might resort to spikes in violence in efforts to maintain that form of social order. When resistance movements remain committed to nonviolence, repression often backfires.[6]

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[4] See Walker (2007; 33ff), cf. this dissertation, Chapter 3.

[5] See the chapter in *Why Civil Resistance Works*, pp. 92-119.

[6] Again see *Why Civil Resistance Works*, pp. 10-11.

When seemingly intractable moral disputes arise (in actual circumstances, not among theories), it is important that individuals bracket their own moral judgments and seek places of agreement among terms of justification so that discussion can begin. What are shared terms of justification? They involve standards for inference and evidence, through which we keep track of commitments and entitlements. While sometimes even these standards have to be modified and made more explicit, initially there needs to be at least enough common ground for modifications in standards of evidence and inference to be recommended. Bracketing one's own ideas for long enough to allow one's ideas to be evaluated is no easy task. As I pointed out earlier,[7] each of us implicitly takes our moral ideas, the actions they recommend, and the injunctions they provide us, to ground the social order itself.

People don't always act as they say people ought to act. However, when someone does, that person is often rewarded with recognition of her moral excellence among those who share many of her moral judgments, and often even respect from those who attempt to live by different moral principles than her, when the differences are not too great. In other words, people often at least attempt to live in accordance with principles. But we have to recognize that acting out certain principles we consider to be essential for the fabric of society might sometimes be the cause of some of our social instabilities, rather than solutions to our social problems.[8] This cannot be seen unless we are willing to look to the effects of our practices, that is, at the disparities between what we avow and how we act, as well as the ways in which our own practices are implicated in the way the world is, and take into account the fact that we are evaluated by others from their perspective.

To reiterate, although there are genuine differences in moral experience and knowledge within moral communities and social orders, and so communication is nearly always imperfect, moral communities and social orders can nevertheless be identified by practices of signification and shared terms that underwrite particular normative understandings. If no one is speaking the same language (I mean this literally as well as in the sense of speaking in a

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[7] This dissertation, Chapter 1 Section 5.

[8] For instance, has the so-called 'war on terror' esliminated, reduced, or exacerbated the instances of violent terrorism in the world?

particular idiom), then no one can disagree, but neither can anyone understand one another well. Sharing the terms which make possible the expression of moral commitments and judgments does not mean sharing the same interpretation of those terms; a model of social practices that includes the comparison of reasonable interpretations of our moral terms makes conceptual space for moral disagreement while also suggesting means for its improvement.[9] Additionally, communities provide models for assessing and templates for acting according to norms. Although attitudes toward the norms of one's community vary from one person to another, the expectations they encourage remain fairly stable, at least when it comes to things like stopping at traffic lights, showing up to work, calling one's grandmother, paying for purchases, being kind, and so on. Some of these expectations are supported by laws, others are not, and not everyone takes them equally seriously. Particular breaches of these expectations are met with different responses attuned to the particularity of the offense, its seriousness as well as its effects (actual and predictable). But we can and often do take some expectations or other to be unreasonable, in the sense that we do not think they need to be met. Stability of social orders is valuable, but when the maintenance of a social order has significant human costs, the value of stability can be outweighed. When the hegemony of a certain set of values requires oppression, that set of values renders its credibility suspect. In cases of oppression, it is not only the oppressed who lose their dignity or their humanity.[10]

2. Proprieties of Performance and Socially Realizable Possibilities

Community practices determine not only proprieties of performance, but also set constraints on socially realizable possibilities. For instance, it is not possible for me to be a knight errant,[11] nor (at this point in my life) an astronaut. Among other things, the passage of time

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[9] See this dissertation, Chapter 2.5, cf. Benhabib 35-37.

[10] Cf. Frederick Douglass, *Narrative of the Life of an American Slave*.

[11] This example is due to John Haugeland (1982), although regarding modern possibilities for quixotic errantry, see Jim Corbett, *Goatwalking*. For an excellent introduction to Haugeland's interpretation of modality see Joseph Rouse's introduction to Haugeland, *Dasein Disclozed*. For an analogous treatment of modality see Dreyfus, *Being-in-the-world*.

makes some things possible and others impossible, depending on the direction we have moved and are moving, individually and collectively. Many moves cannot be taken back. Structure and stability are provided by standards and their being upheld, whether through willing participation or coerced capitulation.

Put slightly differently, social orders to a large extent determine what is possible or impossible for a particular person to realize in a particular social context. Social orders rule out certain possibilities, even as they create others. This is a different understanding of modality than those advanced by Kripke and Lewis. Here possibilities are also created, not merely discovered. In other words, in addition to the physical limitations imposed on anything within the known universe, human beings, through their actions, determine ranges of possibilities for acting and expressing themselves—that is, we also create our own possibilities and limitations, to some extent. This is an account of possibility that recognizes the bearing that human activity has on what possibilities remain available to persons, rather than considering possibility to be roughly equivalent to conceivability. The only possibilities that are relevant on this account are those realizable within the constraints (physical, social, historical) of the world in which we exist. I call these socially realizable possibilities.

Sometimes socially realizable possibilities are actualized despite expectations that they cannot be or should not be. Some possibilities (and impossibilities) are the result of changes in economic and governmental systems, some the result of longstanding practices of inheritance, some the result of very recent legislature, and so on. However, when it comes to what is possible or impossible for a particular person to realize socially at a given time, we should recognize that we not only impose limitations on the conduct and possibilities of others, but we often impose limitations on ourselves, thinking things impossible for us to realize when they are in fact quite possible. Sometimes we think less is possible than is, and other times a person or group of persons intervenes to make something now possible that was not possible before (say, institutionally, as a result of the foundation of an organization). Someone else might point me toward a possibility that I do not yet recognize is possible for me, and if that person can convince me that what I take to be impossible for me is actually

possible, then the range of possibilities I perceive as actualizable is thereby expanded, and the likelihood of actualizing that particular possibility is increased.

What socially realizable possibilities there are in a given social context is also shaped by normative constraints within associations of various kinds (personal, professional, political, religious, etc.). But unlike the limitations imposed on us by the physical world, it is possible to deviate socially from normative expectations, but only up to a point. I might be able to break speed laws, but I still could not be a knight errant.[12] Would-be authorities, in forbidding the actualization of some socially realizable possibility, and enforcing that injunction, only make it harder—not impossible—to do what is forbidden, or what people are told they should not aspire to. True, social deviation comes with the stigma of being labeled a social deviant, but one may well find oneself in a situation where it might be morally preferable to be deviant from one's normative community, as opposed to being in its main stream.

To make some things possible is to make other things impossible. We are constrained, not only by the outer edges of what we perceive are the socially realizable possibilities, but also by human necessities to remain alive and well. As Hannah Arendt pointed out long ago, having to attend to human necessities often gets in the way of realizing certain social possibilities.[13] Change is possible where some people recognize socially realizable possibilities that others have not yet recognized. The development of new standards, and the modification of standards, when recognized by people willing to adhere to them, is an example of this recognition at work. Change is also possible when enough people are determined to make possible some social good that is unavailable in the prevailing social order they are attempting to modify. In other words, even when some possibilities are shuttered, others remain open, and still others can be opened. Taking advantage of the remaining open possibilities will close still others. Exploring possibilities that remain open, we can see how to make more and better possibilities socially realizable for more people.

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[12] I would like to thank David Stern to remind me to mention this crucial point.

[13] See Arendt, *The Human Condition*, especially pp. 79-109.

But agents not only take advantage of available opportunities; sometimes they create these opportunities. In *Why Civil Resistance Works*, Erica Chenoweth and Maria Stephan analyze over one hundred violent and nonviolent campaigns between 1900 and 2006. According to their analysis, "The most striking finding is that between 1900 and 2006, nonviolent resistance campaigns were more than twice as likely to achieve full or partial success as their violent counterparts" (Chenoweth and Stephan 2011, 7). Are these resisters the cause of this success or just the symptom of a political environment that makes success likely? While it certainly is true that resisters must take advantage of available opportunities, the success or failure of these nonviolent campaigns cannot be explained entirely by circumstances. If the success or failure of nonviolent campaigns is determined more by what political opportunities are available than by what direct action makes possible, then Chenoweth's and Stephan's findings might be endogenous, in the sense that some other factor might be responsible for the regimes' downfall in the cases they count as successful nonviolent resistance campaigns, or that in cases of failed violent campaigns, some factor other than their use of violence is primarily responsible for their failure. They argue that neither the success of the nonviolent campaigns nor the failure of the violent campaigns they survey are endogenous. Rather, in successful nonviolent campaigns, success is determined primarily by the combination of mass mobilization, loyalty shifts in security forces, and broad-based solidarity, as opposed to other factors (such as economic failure or foreign involvement) that might be expected to have significant impacts on the success of these campaigns.

> Our findings would be endogenous if nonviolence proved to be a *symptom* of a high probability of campaign success rather than the *cause* of success, or that the conditions that motivate the choice to use violent resistance are the same conditions that predict campaign failure.[14]

To demonstrate that the relative success of nonviolent resistance compared with violent resistance is not endogenous, they cite Marchant et. al (2008), who found that

> contrary to what one might assume, factors such as regime type, level of economic development, literacy rate, or fractionalization of society along ethnic, linguistic, and

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[14] Chenoweth and Stephan (2011, 63).

While the kinds of society a person lives in will determine some possibilities, this will not determine all of the possibilities. By tracking the ways in which normative structures determine socially realizable possibilities, we may be able to identify and actualize possibilities that may not yet be recognized by many within a social order, thereby creating opportunities which can then be taken advantage of. As we increase what is possible for people, and people take advantage of greater possibilities, still more possibilities will be opened up. Of course, increasing possibilities is not always for the better, and sometimes can be for the worse. Human activity made something like Auschwitz possible, and we must never forget, and ask ourselves earnestly what possibilities we are willing to permit, and for what reasons. May the best reasons be taken up and applied. Looking at the matter in this way also shifts our focus toward making available more and (importantly) better social possibilities for more people as opposed to an overly narrow focus on removing explicitly unjust laws in systems where oppression is widespread, historical, and systematic.

This kind of social modality requires a little more clarification. What possibilities remain open at any given time, and which possibilities are closed, will depend on which possibilities have been actualized earlier. For the sake of simplicity I will use the familiar example of chess. In the game of chess, the options that remain available to a particular player depends on what that player has done earlier in the game, as well as on what moves that player's opponent has made. Together the actions of a player and her opponent determine the range of available options for any particular move in a particular game. If the moves that have already been made create and constrain future possibilities, then we can say that working within some system or other determined by rules is a process whereby we take advantage of available possibilities, and where our future possibilities are constrained by our past actions. We may try to see a few moves ahead, but cannot necessarily predict how fellow players will react. And of course, we are not the only users of any particular system, and what options

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[15] Chenoweth and Stephan (2011, 63-64).

remain available depends just as much on the actions of other agents as it does on our own actions.

Chess is, of course, an overly simplified and therefore imperfect example. In a sense, we are 'put into the game' with certain irrevocable moves having already been made for us. And the size of the 'playing field' (or Spielraum) is far from the same for all 'players.' Nevertheless there are advantages in appealing to chess, as long as we do not take the analogy too literally. It shows us that the rules provide only a framework, without determining the content of any particular game. That is, the rules serve only to specify which moves are allowable, not to determine which moves are made. The interplay of various possibilities makes for a wide variety of moves within every game, and determines what moves are available at a given time.

A similar example that illustrates the same point from another direction might be rules of grammar. The rules of grammar specify only which structures are appropriate for creating well-formed sentences, but do not determine which sentences will actually be formed by competent speakers in particular circumstances. Applying these two examples to practices of moral ascription, we might view customary moral norms as specifying only which moves are appropriate and inappropriate to make (in other words, which moral appeals will make sense in which contexts), without determining which moves will be made in particular circumstances (who will make what appeals in which contexts, and which appeals will gain public acceptance).

Here we find the limits to the chess example. In our normative practices, there is often deviation and resistance, which often consists in breaking rules. In chess this would only lead to confusion. But grammatically speaking, sometimes this does happen. What appears at one time to be a violation of a certain grammatical rule might later come to be adopted as fitting within the rules (or their exceptions) if sufficient usage makes this understanding operational, whether implicit or explicit. When it comes to breaking the rules understood as being in force within a moral community, we need to determine whether rule breakers are simply delinquents, or whether they are trying to extend and uphold commonly recognized moral norms (such as protecting human rights in opposition to governmental violations of human

rights, and against governmental restrictions for protecting human rights).[16] This is not quite the same as civil disobedience, for reasons explored at the end of this chapter. Whereas civil disobedience typically involves the intentional violation of some law, resistance to social norms can take various forms within and without the law. Since norms are in the process of being shaped by interpretation and application, many of them are dynamic and fluid. Those who competently seek to challenge or change some rule or other often do so with the intention of improving them, although the unscrupulous also seek to remove laws which restrain them and to introduce laws that grant them unnecessary power.[17] Not only the intent of the would-be rule modifier matters in assessments of proposed rule modifications, but also the interpretations of others matter.

3. Modes, Models, and Modifications

Within the boundaries of our norms and practices, we are provided what might be characterized as social models and templates, each of which is, so to speak, incomplete on its own, waiting to be filled in by the content of particular contexts by particular people. When developing our own sense of self, we invariably begin with available cultural templates to which we have had some exposure, and define ourselves in terms of (or in opposition to) them, and sometimes we rather redefine the terms themselves.

Taking feminine socialization as an example, we can see that there are different models for it.[18] Consider the difference between feminine socialization as it occurs in heteronormative contexts, as compared to the alternative socialization available in riot grrrl circles.[19] Riot grrrl

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[16] For examples of successful protection of human rights against governmental violations of human rights, see Jim Corbett, *Goatwalking*. For more reading on the distinction between lawbreakers and would-be lawmakers, see Robert Goodin (2005), "Toward an International Rule of Law: Distinguishing International Law-Breakers from Would-Be Law-Makers." *Journal of Ethics*, Vol. 9 Current Debates in Global Justice.

[17] The plan to repeal the Frank-Dodd Act is an example of the former, and The Patriot Act is an example of the latter.

[18] Cf. Meyers, "Personal Autonomy and the Paradox of Feminine Socialization."

[19] Riot grrrl is a post-punk movement that incorporates strands of third wave feminism and the aesthetics and politics of the punk rock movement.

provides an alternative to common forms of feminine socialization, but it should be understood, not as the antithesis of typical feminine socialization, but as a viable alternative form of socialization that stands as a challenge to more common forms of feminine socialization, and that many of its adherents came to it through a rejection or modification of their own more traditional socialization. Still, riot grrrl stands on its own, and is only one among many possible forms of combatting patriarchal norms of feminine socialization. Another interesting example is the practice of gender-fluid parenting and gender-fluid children, as an alternative to traditional forms of gender socialization that comes from the parents, whereas riot grrrl seems more of a particular way of challenging traditional socialization.

The riot grrrl movement should be understood as another form of practice, not so much an anti-practice, or strict rebellion. In other words, rebellion against particular social norms simply creates different available practices. We certainly have no shortage of social models for rebellion. However, social movements defined entirely in opposition to some practice already existing are self-limiting, as they appear to make the meaning of that movement contingent on the existence of that against which it is organizing, at least in extreme cases where a movement presents itself as the negation of another.[20] This is why I have suggested that riot grrrl is not so much a case of non-conformity as it is a case of conforming to a different set of standards, taken to be valuable by those who engage in that movement. What is commonly regarded as non-conformity, then, can be seen as conformity to minority or marginal practices. Even the hermit takes advantage of an available social category.

Riot grrrl itself is a modification and combination of available social forms, in this case third wave feminism and punk rock aesthetics and politics, which challenges patriarchy, both within punk rock itself and in contemporary culture more generally. Modifications of available forms of expression, some subversive, others overt, are one of the more important

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[20] So defining one's movement is also problematic from a strategic point of view, as it requires a certain amount of 'ideological purity' that makes broad-based solidarity and mass participation much harder to attain. See Chenoweth and Stephan, *Why Civil Resistance Works*, pp. 39-41.

features of social life according to my conception, as they reveal massive potential for social change. Social change happens often at a glacial pace, but it is the result of these kinds of adaptations, combinations, and modifications (only sometimes arising out of a crisis). Neither do social movements arise *ex nihilo*, nor is the stability of any certain form of practice in any way guaranteed. While there are fissures and fractures within social orders, these gaps make room for available practices to be repurposed, adapted, modified, and in a few cases, uprooted or discontinued. Through this process the scope of socially realizable possibilities for individual persons expands or contracts, according to the lives made possible by the adaptations and reappropriations of available social forms.

4. Changing for the Better: Modeling, Leadership, and Self-Realization

The inspiration for this project was what appeared to be a tension in some philosophical-anthropological conceptions of human development that I admire, especially certain conceptions of the development of the self (or as I prefer to say, of oneself). According to these kinds of conceptions, the emergence of self-consciousness is very heavily socially mediated and is possible only as the result of social experience, exchange, and practices of mutual recognition.[21] According to many of these same conceptions, the communities that shape the self may be identified by locating dense clusters of values treated as more or less sacred.[22] Now for the puzzle: If self-development is socially mediated and made possible by one's community, and communities are understood as forming around dense clusters of central (non-negotiable) values, then (a) how is it possible for there to be resistance to going on as we have before, that is, for individuals to resist their communities or define their own values? and (b) how is this resistance, disagreement, conflict, and struggle best understood, once we have located conceptual space for its possibility?

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[21] See Heidegger*, Being and Time*; Charles Taylor, *Multiculturalism and Toleration*; cf. John Christman, (2004). "Relational Autonomy, Liberal Individualism, and the Social Constitution of Selves." *Philosophical Studies* 117: 143-164.

[22] See Taylor, *Multiculturalism and Toleration*; cf. Benhabib, *The Claims of Culture*. On 'sacralizing' values, see Tessman, *Moral Failure*.

I envision these questions as exposing a crack in the polished surface of certain theories of self, community, and the self-community relation, especially for those which understand the self to be fully 'constituted' by one's (monolithically construed) community. The inability to account for variance within communities, as well as resistance to dominant norms within communities, should render certain kinds of accounts unacceptable. At a minimum, the idea that selves are wholly constituted by communities, where communities are understood as forming around dense clusters of sacralized values, must be abandoned, at least for the kinds of communities that exist today. Still, finding a solution to this puzzle in no way requires the equally opposite approach of positing Robinson Crusoes who arrive on earth as fully formed personalities and whose personalities would not suffer from being alienated from society altogether. (Robinson Crusoe itself is a tale which, it needs to be noted, is deeply, inescapably rooted in colonialism and forced servitude, which ought to raise several questions about the social conditions under which such individualist narratives arise in the first place.)

This brings me to another basic idea from which my thinking proceeds: the importance of figurative speech, historical figures, and prevalent available narratives in developing human understanding. It is the idea that depictions, accounts, arguments, especially standard (and standardized) arguments and replies to those arguments, are among the available formulas that can be applied and combined in various ways according to certain rules, though not in just any way whatsoever. Changes and developments in understandings arise out of challenges to "obvious" solutions to problems identified, and modifications of standing practices. Through these available modes of argument and demonstration, we either identify or misidentify which problems we face together, and which of those problems are most pressing. Discussions of which problems we face and which among them are most pressing present opportunities for us to define and redefine our priorities and ourselves in the process.[23]

Let's return to the question of how it is possible to theorize resistance from a philosophical-anthropological standpoint that emphasizes the importance of socialization on the

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[23] See this dissertation, Chapter 2 Section 5, and the introduction of Chapter 5.

development of self-consciousness. To answer the question of how people can resist within communities while remaining members of those communities, I have advanced a slightly different account of what communities are and why they matter to us. Communities, I have argued, are not best understood as crystallizing wherever clusters of sacred values can be identified.[24] Instead of identifying communities where we can find completely shared values, shared judgments, or shared worldviews, we should identify communities where we can find shared terms of justification, that is, shared standards for creating and evaluating justifications for actions or practices.[25]

These shared terms of justification will be used differently by different people. Through them individuals identify their own values and submit themselves to evaluation by others. Not all are equally competent or scrupulous with respect to them. While particular judgments of value might not be shared by every member of a community or social order, terms for justifying and evaluating actions, proposals, and effects of practices will nevertheless be more or less shared. Sharing these terms makes 'moves' in the game of value identification possible, but this sharing does not determine which judgments (if any) will be universally agreed upon. Rather, these terms make possible evaluation and cross-examination of commitments, entitlements, and actions by numerous players from the widest variety of backgrounds and perspectives.

Continuing the game/grammar analogy, we might say that these shared terms make certain moves available to participants in a social order. What moves are available now depends on what moves have been made previously. By taking advantage of available maneuvers, participants determine which aspects of their social order will be repeated, which repurposed, which redefined, and which rejected. When these models (or 'moves') become widely known, they become adaptable to wide varieties of circumstances, and thus can be appropriated and reappropriated by more and more agents, and this process in turn can lead

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[24] See Chapters 2 and 3 of this dissertation. For more about how values become sacralized, see Lisa Tessman, *Moral Failure*.

[25] See Walker (2007, 69ff).

to significant changes. In a similar discussion about available moves people can make within and around "rules," De Certeau speaks of the average person's "ways of operating."

De Certeau's insight begins with Foucault's recognition of analogies between educational and punitive discipline, in which these social orders replicate themselves. But de Certeau then turns that understanding on its head by focusing not on how culture replicates itself through social orders as though social orders themselves had a form of agency, but instead how culture modifies itself through the actions of consumers of culture.[26] According to de Certeau, what should be emphasized is usage or consumption rather than focusing almost exclusively on power structures. Artifacts of culture are not always used for their 'intended' purposes, and deviations in use provide a large variety of adaptations and interpretations of these cultural artifacts, according to de Certeau. He introduces the phrase 'ways of operating' to characterize the usage of cultural artifacts by average people. His goal is to understand how users operate.

> This goal will be achieved if everyday practices, 'ways of operating' or doing things, no longer appear as merely the obscure background of social activity, and if a body of theoretical questions, categories, and perspectives, by penetrating this security, make it possible to articulate them.[27]

These ways of operating are not strict applications of the 'rules' of whatever social structure we are investigating. De Certeau's examples are numerous but commonplace. He speaks not only of the ways people are 'supposed to operate,' but how they do operate. Examples include "milking the clock," where hourly workers work more slowly than they could, using the company saw to chop wood for a personal project after work, carpenters or landscapers taking side jobs with company tools, and so on. Such practices are ubiquitous and for the most part innocuous, according to de Certeau. But he argues that bringing them into focus is a way to show the significant amount of power that individuals have in the replication of common practices. The way that culture is consumed by those upon whom it is enforced does not always conform to the plans of those who are making that cultural form dominant

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[26] Foucault, *Discipline and Punish*.

[27] Michel de Certeau, *The Practice of Everyday Life*, xi.

or those moves available. Some of these adaptations of available cultural forms can be considered as resistant, even where people 'comply' with standards available to them.

This suggestion of de Certeau reminds me of another example. Consider the case of spiritual songs of slaves that arose in the antebellum South of the United States. They were songs of freedom that subversively incorporated images and symbols of Christianity, the religion of the slave owners, in order to get across messages of the hope of redemption and liberation. Many of them explicitly embrace the early liberation narratives of the Old Testament, play with the notion of exodus, and toy with depictions of Pharaoh as comparable to slave owners (for abundantly obvious reasons). These enthusiastic adaptations of biblical narratives made slave owners more than a little uncomfortable, and were certainly used in ways slave owners could neither predict nor control, despite their efforts to deprive slaves of knowledge of the text they claimed justified their inhumane practices of slaveholding. This subversive practice of appropriating an enforced cultural narrative and adapting it to particular needs is a prime example of the 'ways of operating' of which de Certeau speaks. But this also requires understanding 'community' in the way advocated in Chapter 2. A similar example of de Certeau's is the way in which Christianity was appropriated by Indigenous people in the Americas (particularly Central and South America) when it was thrust upon them by early Spanish settlers. The forms of Christianity they practiced were the result of various combinations of Indigenous mythologies with that of Christianity, and the aspects of biblical narratives which they appropriated and modified often came as a surprise to the Spanish settlers.[28]

Chapter 2 advanced the argument that communities do not form a discrete and bounded ontological whole. We should instead understand them as being made out of a "bricolage"[29] of practices, participation in which is varied, fluid, and often contestatory. The way culture is appropriated by everyday users does not always accord with the plans of those who are attempting to make certain cultural forms dominant. Available ways of operating provide

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[28] De Certeau (1984, xii).

[29] This term is de Certeau, see (1984, 123ff).

incomplete templates of sorts, just as laws of grammar do not predict which sentences will actually be formed by competent speakers. What makes rules of grammar interesting is that they show us how people can express ever new sentences by following certain recognized patterns. And in addition to following the patterns, users also sometimes quietly subvert them in their use. In the end, the creativity with which people will use the tools they've been given makes not only for surprising modifications *within* the rules, but also for modifications of the rules themselves. By focusing on how people employ the tools of a practice they've been given, de Certeau, like Wittgenstein, reminds us that practice is prior to and somewhat independent of theory.

Ways of operating can be compliant, resistant, or subversively applied, and include work patterns (including taking side jobs using company equipment), patterns of food production and consumption (including growing one's own food and sharing it as opposed to purchasing most of it at the supermarket), ways of forming sentences and what kinds of sentences are formed (including the introduction of coded slang and alternative forms and dialects of speech), styles of clothing, manners for occasions, patterns of celebration (including counter-celebrations, e.g., as when celebrations of what is sometimes called Indigenous Peoples Day replace celebrations of what is recognized by the United States as Columbus Day in various cities),[30] solemnities for certain occasions and places (e.g. funerals or state ceremonies) or days of remembrance (including those less-celebrated, like May Day, which commemorates a massacre of striking workers in Chicago). Each of these ways of operating expresses certain normative understandings of what is appropriate to say and do within each of these contexts. There are innumerable social expectations associated with these social patterns.

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[30] In Trinidad and Tobago, Discovery Day, which was a national holiday celebrating the discovery and naming of Trinidad by Christopher Columbus, has been replaced entirely by Emancipation Day, a national holiday celebrating the emancipation of slaves in Trinidad in 1832.

5. Why Nonviolent Resistance Is Not (Always) Civil Disobedience

Practices, and the public sentiment that they necessarily involve, make laws possible or impossible to enforce, and this suggests that practices might be a superior place to start theorizing about normative change than legal or moral obligations.

Once defined in terms of the law, civil disobedience must be characterized a violation of the law, a violation that purports to serve a communicative function, which, when morally justified, places certain laws in question. To put the point bluntly, the tradition from which civil disobedience literature arises involves certain assumptions I find rather dubious. First of these is that there is a prima facie obligation to obey the laws of a reasonably just state, should any such exist.[31] Here I want not so much to argue against this assumption (others have already done that rather well), I want to point out that it is wholly unnecessary for us to argue either side of this assumption, once we shift our scope, from civil disobedience of law to nonviolent resistance of prevalent practices, whether these practices involve legally sanctioned activities or not. In this sense the theory presented here is liberated from a perennial debate in political philosophy.

In addition to being unnecessary, arguing for one side or another of the question of political obligation is not even a desirable place to start theorizing about nonviolent resistance. Once the issue is framed in terms of violations of a purported obligation to obey the law, we have significantly restricted the scope of activities that can be identified and discussed as instances. For instance, while it was certainly illegal for Mrs. Rosa Parks to refuse to give up her seat on the bus to white folks in Montgomery 1955, the ensuing bus boycott that was sparked by her arrest, which she diligently helped to maintain for over a year, and which ultimately resulted in a change in the laws of Montgomery, was in no way illegal.

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[31] This is a very frequent assumption in political philosophy generally, known as the problem of political obligation. The literature on this subject is far too vast for a complete summary here. For proponents of the idea that there is a prima facie obligation to obey the law, see Rawls, *A Theory of Justice*; Klosko (2004), "Multiple Principles of Political Obligation." *Political Theory*, Vol. 32, No. 6: 801-824; John Finnis (1984), "The Authority of Law in the Predicament of Contemporary Social Theory." *Ethics and Public Policy*. For detractors (with whom my own sympathies lie), see M. B. E. Smith (1973), "Is There a Prima Facie Obligation to Obey the Law?" *Yale Law Journal*; and John Simmons (1999), "Justification and Legitimacy." *Ethics*, vol. 109: 739-771.

Here a tremendous opportunity for understanding the machinery of mass mobilized resistance and tactics of dispersion such as economic boycotts is missed if we only look to violations of the law. We would bear witness to the spark while ignoring the fire. Indeed, if civil disobedience is defined in terms of violations of the law, then only certain portions of the Civil Rights movement in the United States in the 1960s count as civil disobedience: those where the law was explicitly violated. In fact, even legal assemblies, marches, and numerous protests, at least those which legally exercised the right of assembly, would not count as civil disobedience on this interpretation, which is another shortfall of this conception. For it cannot be denied that events like the million man march had a significant impact on public sentiment and did important work for the Civil Rights movement. Both civil disobedience and legal protest would count as forms of nonviolent resistance (depending on the definition of civil disobedience) in my view. I recommend the phrase nonviolent resistance because it highlights the important connections between the legal and illegal elements of the Civil Rights movement.

Another liability of discussing civil disobedience in this manner is that it might give off the false impression that *all* acts of nonviolent resistance—including those that in no way violate the law—are perpetrated by people willing to violate the law. This in turn can be used against resistors, to paint them as malcontents with no respect for rule and order, who are ready and willing to violate whatever laws they take to rub against their individual conscience. As a matter of representation, this should be avoided entirely. Of course, in the civil disobedience literature, distinctions are made between those who violate laws out of caprice and those who violate unjust laws in order to see better laws enacted and fulfilled, but those unfamiliar with civil disobedience literature might still operate under the assumption that nonviolent resistance is the work of malcontents who must be made to fall in line.

If civil disobedience is defined in terms of violations of the law where there is a prima facie obligation to obey the law, then civil resistance is prima facie unjustified.[32] This means that one of the primary aims of civil disobedience is *communicative*: the idea is to provide

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[32] See Bedau (1969).

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justifications for violating particular laws, in other words, to show that the prima facie obligation to obey the law has been overridden in the particular case in hand. There are two reasons I find this unnecessary and undesirable: first, it wraps us up into the assumption that there is a prima facie obligation to obey the law, restricting the scope of morally justified nonviolent resistance properly understood; second, it presumes that *civil obedience* is prima facie *justified*, in other words, that justifications for action should only be reasonably demanded when those actions are understood to be prima facie *unjustified*. It seems to me that there is nothing inappropriate about demanding justifications for *following* the law, especially when civil obedience to legal authority involves or entails violations of universal human rights, as it all too frequently does.

I take the above paragraphs to indicate that framing the issue of civil disobedience via political obligation (or 'civil obedience') misses much of the importance of the social activity of nonviolent resistance, and precludes many aspects of the more important social movements of the twentieth century from its scope. It also ignores the possibility that civil obedience might be at least as pressing a social problem as criminal activity, especially when political powers exploit their power to engage in widespread violations of human rights. It seems to me that discourse about the importance of civil obedience (and the related assumption that it needs no justification, at least not initially) and the importance of *justifying* civil disobedience (where violations of the law are *presumed* to be unjustified) both miss the point: the imperative to (actually) be civil.

To think of nonviolent resistance as civil disobedience, where the latter is characterized as justified violations of unjust laws, not only unnecessarily limits the scope of activity that should properly be part of the domain of inquiry into social change, but it also fails to capture some of the more important aspects of civil disobedience itself. If civil disobedience is justified violation of unjust laws, then the purpose of civil disobedience, in addition to publicizing the injustice of certain laws, is ultimately the removal of unjust laws. But that is only the smaller target in much advocacy for social change.

Respect for universal human rights and the achievement of social justice are the ultimate aims, and these can be brought about through various devices, which do not always involve explicit violations of unjust laws. Expansion of the respect for human rights and protecting against violations of human rights can be understood, whether in violation of statutes or not, as acting on the moral imperative to respect human rights. In other words, the struggle to remove bad laws is not always the same as the struggle to expand the respect for certain moral imperatives, even if these two aims sometimes coincide.

Finally, it is important to look carefully at the conditions for justified civil disobedience, and examine whether all of these conditions should be considered necessary and if so how they should be interpreted. The main condition I think needs examination is the condition of publicity for acts of nonviolent resistance (or civil disobedience). This requirement that those who engage in civil disobedience must do so publicly and submit to unjust punishment in order to highlight the injustice of the particular statute being violated and of the injustice of punishing those who violate it seems to me quite mistaken. I think that this requirement should be mitigated by pragmatic considerations of campaign success. Especially in cases where repression is excessively violent and brutal, and where submission to unjust punishment might jeopardize the success of a nonviolent resistance campaign, a relaxation of this requirement may be in order.

For example, the underground railroad, which was a network of abolitionists in the United States prior to the Civil War, and which materially and morally supported the freedom of slaves, violated several local and state statutes. But the brutality of repression, as well as the cost of resubmission to the injustice of slavery, both played a major role in the movement's being 'underground'. Had the movement been more public, and its practitioners submitted to whatever unjust punishments the antebellum South dreamed up, the underground railroad itself might have been so jeopardized that it may have ceased to function. Only once slavery was abolished were those who engaged in the underground railroad safer to reveal their actions fully publicly (and many likely kept their involvement secret even after the Civil War, due to the very real threat of extrajudicial reprisal by vigilante groups). The underground railroad is a case in which compliance with the publicity condition of civil

disobedience as defined by Rawls and Bedau would very likely have led to the destruction of the underground railroad. This implies that the severity of credible threats of violent reprisal and repression can suffice to justify keeping one's movements from official view. This issue will be taken up in more detail with contemporary examples in Section 6.c. in this chapter.

This does not mean, of course, that the underground railroad had *no* publicity. The network of abolitionists that conducted the underground railroad had to have revealed themselves to one another, at the very least. And abolitionist literature, which is a public expression of values, likely helped provide moral support and solidarity. However, when it comes to undermining unjust social systems, the main aim should be to remove the pillars of support for those systems. In the system of slavery, the ownership of slaves and the system of enforcement for slavery was one of the pillars of support for that system. Each freed slave was a weakening of that pillar. Demonstrating the inability of the slave owners to keep control of their slaves is another feature that threatens their control while informing people of the possibility of freedom, and in turn may have emboldened other would-be resisters.

Thus, some publicity is in order, but full publicity here might have been fatally misguided. Instead of full publicity and openly breaking the law, I suggest 'selective publicity,' to identify the tightrope walked by resisters in cases of severe repression. Walking the tightrope of where and how to be public, and to whom, is part of the art of nonviolent resistance. While public justification is important, it should be combined with sound strategy aimed at successfully removing the pillars of support for those who promote systemic injustice.

When it comes to strategy, this is another area where too much focus on civil disobedience has hindered understanding the potential of nonviolent resistance. Nonviolent resistance can be seen as consisting of strategies of concentration (i.e., mass protests, taking to the streets) and dispersion (stay-aways, strikes, economic boycotts, etc.). The image that arises when we speak of submitting to unjust punishments involves mainly governmental repression of strategies of concentration by resisters. It is true that regime repression in these cases often

backfires, adding more fuel to the fire of resistance while undermining the credibility of the regime, domestically and internationally.[33]

But strategies of dispersion, such as general strikes, walkouts, and economic boycotts can be equally effective, and are much more difficult for regimes to repress (particularly when pillars of support for the regime, such as security personnel, join in the strikes). By combining strategies of concentration with strategies of dispersion, resisters can remain ahead of repressive regimes and make it more difficult, even impossible, for them to retain control of the population by chipping away at their pillars of support. But the focus on publicly accepting unjust punishment in civil disobedience discourse steers attention mainly toward strategies of concentration, meaning strategies of dispersion remain unrecognized and their strategic potential untapped.

For all of these reasons, I think that framing the issue in terms of nonviolence (rather than in terms of obedience or disobedience) is preferable conceptually, representationally, strategically, and morally. However, nonviolence as a primary means of social organization is not without its own limitations, either.

> Whether nonviolence can completely replace obedience in maintaining human society depends on whether human consociations can live unprotected by government. If they can't, the next question is whether obedience is sufficient for maintaining and extending the civil bond. If not, then unsubjugated nonviolent communities of some kind are likely to prove essential for us to become a society that excludes no human beings as aliens, even if these nonviolent communities remain quixotically inadequate for the preservation of the civil condition among those of us who are usually competitive and often (quite humanly) covetous, bellicose, and domineering. (Corbett, 97)[34]

To sum up, there are several reasons I prefer to speak of nonviolent resistance rather than civil disobedience. First, civil disobedience is tied to the literature of civil obedience, that is, political obligation. If political obligation is understood as an obligation to citizens to be civil, then I have no objection to it. But imperatives to be civil need not involve imperatives to obey the law, even if they sometimes do, and the imperative to be civil sometimes will

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[33] See Chenoweth and Stephan (2011), esp 10-11.

[34] Corbett's understanding of 'nonviolence' is somewhat different than the one developed here. See *Goatwalking*, pp. 87-114.

require violating the law. Hence, political obligation seems to be irrelevant to the question of whether a particular case of nonviolent resistance can be morally justified. Second, by restricting the scope of the discussion to people who break the law, the literature risks representing resisters as malcontent violators of (mostly) obligatory rules. Third, because selective publicity in campaigns of resistance is frequently preferable to full publicity where full publicity is liable to endanger the success of the campaign. Fourth, because framing the issue in terms of the law rules out of scope numerous instances of (historically successful) tactics of nonviolent resistance. Fifth, because it disproportionately emphasizes certain tactics of nonviolent resistance (those of concentration) over others (those of dispersion). Finally, because it overlooks the moral liabilities of civil obedience, which are at least as dangerous as the liability that would-be resisters may sometimes violate the law unjustly.[35]

6. Three Examples of Nonviolent Resistance as Contrast Cases to Civil Disobedience

The following examples stand as modifications of (or challenges to) certain standard practices, and present a case for reconsidering the narrow concept of civil disobedience in light of the concept of nonviolent resistance. They are cases of nonviolent resistance that range from reasonably uncontroversial to relatively controversial. None of them seem to fit the standard model of civil disobedience. Some fail to fit the definition; others fail to meet certain conditions for the justification of civil disobedience on the traditional interpretation. Nevertheless I believe that all of these cases are well characterized by the term 'nonviolent resistance,' and that even the most controversial of them can be morally justified in many circumstances.

The first example is the pay-what-you-can community café. This example lays out a morally uncontroversial 'way of operating' well within the established laws of society. Although for this reason it fails to count as civil disobedience, I will argue that it can nevertheless be well characterized as subversive nonviolent resistance to certain prevalent practices. The second example is a case of assisting political refugees across international borders into nation-states

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[35] See Howard Zinn, *Democracy and Disobedience*.

that classify those refugees as 'illegal aliens.' I will argue, along with Jim Corbett, that rather than being a case of civil disobedience, it should be regarded as a case of taking civil initiative: acting on the imperative to protect the vulnerable from abuses of human rights, when necessary in spite of governmental restrictions. While nonviolent, this example is slightly more controversial insofar as engaging in this practice sometimes requires skirting around the law (as opposed to 'breaking the law publicly,' see below). The third and most controversial example is the practice of monkeywrenching, which involves sabotaging mining and other industrial and construction equipment for the sake of environmental protection. This example is the most controversial in that it involves not only non-public violations of the law, but also willful destruction of property.

Through these examples I hope to provide a rough survey of the enormous array of available methods of nonviolent resistance ranging from low- to high-risk activity, from morally unambiguous to morally ambiguous. In doing so, I hope to demonstrate the versatility of the concept of nonviolent resistance and the relative rigidity and frequent inapplicability of the concept of civil disobedience to cases of social change. My suggestion is that a focus on the wider range of nonviolent resistance tactics will provide people with strategies and ways of operating that fit with their conscience and abilities, whether as a strategic modification of available practices or a tactic applied in a nonviolent struggle of attrition.

Of course, the term 'nonviolent resistance' must not be made so general that it ceases to have analytic use. That is why I attempted to choose examples at the outer edges of what might count as 'resisting,' and in one case to what might count as resisting 'nonviolently.' These examples are intended to provide only landmarks. They cannot explore the entirety of the conceptual landscape. But they do provide a rough view of the horizon, so that the reader may hopefully grasp certain elements of the terrain, from the uncontroversial case of taking advantage of available opportunities, to the controversial case of destroying something so that something else may remain. By providing these illustrations, I hope to provide a rough outline of the range of available strategies, tactics, and ways of operating that readers can use as models for civic engagement, challenge and change where necessary.

Briefly, I want to outline the traditional account of civil disobedience,[36] according to which civil disobedience is defined in the following terms with the following conditions:

> [1] Civil disobedience must be nonviolent.
> [2] Civil disobedience involves a violation of a standing obligation to obey the law.
> [3] Civil disobedience is a public political act, and as such must be done in full view of the public, in the open, while appealing to public conscience and public principles.
> [4] Those who participate in civil disobedience should be prepared to accept legal consequences for their actions.[37]

In what follows I will go through three separate examples of what I take to be nonviolent resistance to certain interrelated normative practices that will either require interpretation of clauses in the definition of civil disobedience in [1] and [2] above, or appear to violate one of the conditions for justification of civil disobedience in [3] and [4]. But I hope to not only show that nonviolent resistance encompasses a much wider scope of activity than does civil disobedience. I also want to argue that it has a much wider potential application than does civil disobedience, which makes it a more versatile term covering a wider variety of tactics.

a. The Pay-What-You-Can Community Café

The first example is the model of the pay-what-you-can (PWYC) community café. PWYC community cafes operate in several locations across the United States and throughout the world. By modifying certain aspects of a regular restaurant, and taking advantage of available 'ways of operating' which remain within the law, PWYC community cafes identify and address societal problems like food insecurity and social injustice, while simultaneously stimulating productive dialogue regarding prevalent practices in food production and consumption. This modification in ways of operating provides substantial positive impacts to the communities it serves. In a master's thesis assessing the potential and hoping to demonstrate the viability of such a project in Muncie, Indiana, Jessica Pflaumer describes the purpose of this model.

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[36] See for instance, Hugo Bedau, "On Civil Disobedience," *Journal of Philosophy*, vol. 58 (1961), pp. 653-661; Rawls, "The Justification of Civil Disobedience," in Bedau, ed., *Civil Disobedience: Theory and Practice*; Rawls, *A Theory of Justice* §§55-59.

[37] Cf. Rawls (1971, 322): "The law is broken, but fidelity to law is expressed by the public and nonviolent nature of the act, by the willingness to accept the legal consequences of one's conduct."

> Pay-what-you-can (PWYC) community cafes are a relatively new phenomenon working to fight challenges that relate to food insecurity and poverty in order to ensure that all people have access to healthy, fresh whole foods regardless of means.[38]

These cafes address more than food insecurity. Pflaumer points out that "in most cases," PWYC community cafes "provide opportunities for job or life skills training so that each individual may be empowered to improve his or her circumstances" (2015, 3). The first PWYC community café, One World Café, arose in Salt Lake City in 2003. In 2012, One World Café closed its doors so that its founder could focus on her non-profit organization, One World, Everybody Eats (OWEE), which assists up and coming PWYC community cafes with business plans, set-up, grant writing, and problem solving. In Denver, SAME Café (So All May Eat) opened its doors in 2006, and is the longest running OWEE-affiliated café in operation. Since 2003, over 60 locations have successfully adopted the model, whether in part or in full.[39]

Rather than a point of sale, OWEE-affiliated and inspired PWYC community cafes have what they call 'a point of accountability,' which "could be a cash register, a monitored donation box, or some other point of collection, as long as there is someone for café patrons to hand their payment to (or set up a chance to volunteer with) and hold everyone accountable" (Pflaumer 2015, 5). Most PWYC cafes offer suggested prices for those who wish to pay for their food, and operate on a strong volunteer basis, along with very few part-time and full-time employees. PWYC community cafes have no set menu, in order to be able to work better with local producers according to what is in season and available at the time. This also drives creativity in the kitchen, where volunteers acquire job skills and training (from basic food safety training like ServSafe® certification, all the way up to cooking certifications that can prepare volunteers for further culinary training and work) and references that can be used for potential employment in the food service industry. Local, organic ingredients are emphasized, which encourages local economic development and

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[38] Pflaumer, Jessica R. "The pay-what-you-can community café: a model for fighting food insecurity within a community and how it can be applied to Muncie, Indiana." (2015).

[39] See https://www.oneworldeverybodyeats.org/start-a-cafe/

sustainability.[40] Volunteers are also sometimes given the option to volunteer on local farms to earn meals, giving people even more connections to the food they eat.

For those who wish to start a PWYC community café, OWEE serves as a resource, and their affiliates operate according to these 7 Core Values of a Community Café:[41]

> **1. Pay-what-you-can pricing**—Each customer sets their own price for their meal. You may have suggested prices or price ranges.
> **2. Patrons choose their own portion size**—You can offer small, medium, and large plates, mindful portion sizes, and buffet or cafeteria style. This helps eliminate food waste, curb overheating and supports your customer in adhering to their personal budget.
> **3. Healthy, seasonal foods**—A commitment to providing local and organic, and sustainably grown, raised or caught when and where possible.
> **4. Patrons can volunteer in exchange for a meal**—This provides a 'hand up, not a hand out' opportunity. Be mindful that a properly trained volunteer can lead to future employment in the food service industry.
> **5. Volunteers are used to the greatest extent possible**—This is an important key to building community and sustainability. Volunteers can just be working for meals or because they want to support your efforts to curb hunger in your community.
> **6. Paid staff earns a living wage**—This will vary by region, but $12 to $15 per hour is a guideline.
> **7. Community Table**—Have a larger table where individuals and small groups can sit with others and make a larger group that can cross social, economic and other societal boundaries.

The PWYC community café model simultaneously identifies and addresses several interrelated problems facing many communities in the world today: food insecurity, the unsustainability of the industrialized food system, the low nutritional value and high caloric content of much of today's food, and the social stigmas that frequently accompany food insecurity and reliance on food assistance programs. The skewed public perception and misinformation about food assistance programs often leads legislators to cut funding for these programs. PWYC community cafes can potentially fill in those gaps while making positive impacts in the community by providing not only good food but mutual recognition at a common table.

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[40] SAME Café, for instance, pays local producers in full for the ingredients it uses in the kitchen.

[41] This list is from https://www.oneworldeverybodyeats.org/start-a-cafe/

A PWYC community café provides an environment of acceptance and understanding, not judgment and pity like food banks or soup kitchens. The beauty of the PWYC community café model is that no patrons are aware of who is paying and who is not (Pflaumer 2015, 30).

It is important that everyone has a seat at the table so people can begin to see eye to eye. Because patrons do not know who is paying for food and who is not, by having a community table, and by hosting community dinners, PWYC community cafes create numerous opportunities for dialogue among people from various walks of life with a variety of experiences.

Food assistance programs often have to rely on non-perishable food items. Foods with longer shelf lives, because of the preservation process, tend to have more calories but less nutritive value, and health problems are prevalent in many of those who rely on food pantries including obesity and diabetes. In addition, major trends in food production, consumption, and diet in general have resulted in similar conditions throughout the population. By using seasonal, local and organic produce, PWYC community cafes provide healthy options for people who are food insecure without stigma, with which they can supplement their food assistance. At the same time, they promote a healthy lifestyle to the general population.

By supporting local and organic producers and letting patrons choose their portions, PWYC community cafes promote sustainable agriculture, minimize greenhouse emissions by discouraging food waste and by reducing the distance food travels, promote local economic development, and in so doing are able to provide fresher, healthier ingredients not only to those in need but also those with means.

Rather than operating through impersonal cash and check donations, as do some non-profit organizations, PWYC community cafes encourage the local community to volunteer, giving those who wish to help a chance to roll up their sleeves and get to work, to see the problem and understand its depths first hand while exploring a potential solution to it. This in turn increases potential for even more dialogue between people with a variety of backgrounds, which in turn promotes understanding. Similar experiences are less likely for those who simply write checks. Finally, by encouraging commensality through the use of community

tables, PWYC community cafes provide the chance for people to step beyond their usual boundaries and experience a conversation with someone new.

Now we have come to one reason I prefer to speak of nonviolent resistance as opposed to civil disobedience. PWYC community cafes definitely stand as a challenge to several aspects of widely prevalent practices, including practices of industrialized agriculture, zoning and planning practices that result in limited access to quality food for low income individuals, how we treat (as opposed to 'deal with') those in need, and even in practices surrounding those with whom we eat. These interrelated community responses to commonly recognized problems provide reasonably uncontroversial and straightforward solutions to a myriad of problems at once.

It is an example of community creation, engagement, and improvement that I take to be a model for the kinds of community I envisioned in Chapter 2, centered on conversations of common concern. Shared recognition of a common cause does not require substantively similar commitments regarding comprehensive conceptions of the good, only recognition of the goods that can come from a particular communal endeavor. I consider PWYC community cafes to be nonviolent resistance to industrialized agriculture, systems that perpetuate rather than alleviate food insecurity, systems that encourage and enable unhealthy lifestyles, and unnecessary social stigmas related to being in need. Nevertheless, PWYC community cafes fail to meet the definition of civil disobedience, insofar as no laws need be violated in operating a PWYC community café. Yet it seems to me that they resist numerous prevalent practices. This is nonviolent resistance rather than civil disobedience, in that its aims are subversive rather than deliberately law-breaking.

To sum up, according to the conception of community as centered around conversations of concern,[42] PWYC community cafes identify and address problems recognized in common, and find solutions to those problems that involve literally coming together as a community over something we all need: food. But these communities are created through modifications

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[42] See this dissertation, Chapter 2.

of available practices, ways of operating, that are all, so to speak, 'above board.' While this resistance may be subtle, it is resistance nonetheless. This example also intends to show that by understanding how our practices are interrelated, we can hopefully modify them in ways that bring about healthier, happier, more fulfilling lives for more people. This is also an excellent example of socially realizing certain available possibilities in ways that increase opportunities. The PWYC community café model, by modifying, adapting, and adopting available practices of food pricing, food assistance, food service, volunteer services, food production, and food consumption, simultaneously addresses many interrelated problems, including but not limited to food insecurity, unhealthy eating habits, problems arising from the industrialized food system, social stigmas related to those who require food assistance, and the need for job training and life skills, all while promoting local economic development, autonomy, a healthier lifestyle, understanding and acceptance, creativity, and stronger social bonds within a community among a wide range of people from all walks of life.

b. Goatwalking and the Sanctuary Movement

The Sanctuary movement arose in the 1980s as a response to an emerging refugee crisis in El Salvador and Guatemala, when thousands of El Salvadoran and Guatemalan refugees came to the United States seeking first asylum, but were refused and returned to their country, to fates unknown. Because the case is complex, I quote at some length. Jim Corbett recalls,

> The official government position was that the Salvadorans and Guatemalans arriving in the United States were 'illegals' rather than refugees, that they were just coming to the United States looking for jobs, that no refugee-causing violations of human rights in El Salvador and Guatemala were causing the influx. Anyone who assisted them with food, shelter, transportation, communications, or concealment was therefore, according to federal officials, committing a felony punishable by up to five years' imprisonment for each act of assistance—and up to ten years for conspiring to do so.
> The United States had ratified a United Nations treaty and enacted a federal law committing itself never to return a refugee to a country where he or she had reason to fear persecution— that is, to provide safe haven for first-asylum refugees, regardless of their nationality, political opinion, social class, race, or religion—so when the U.S. government returned the Salvadorans and Guatemalans it claimed they were 'illegals' rather than refugees. By international declarations, customary international standards, ratified treaties, and federal law, if the refugees were genuine first-asylum refugees, they had a lawful right to be in the United States, regardless of the way they entered the country or whether they had visas or other documentation. If they were refugees, returning them would be a grave violation of

international human rights law, called *refoulement.*

Elliott Abrams, the head of the U.S. State Department's Human Rights Office at the time, would repeat the official position time and again with the same words: "Legally and morally, the distinction between economic migrants and political refugees matters greatly. The United States is legally obligated and morally bound to protect refugees, but not to accept for permanent residence every illegal immigrant who reaches our shores." He was also in charge of drawing up periodic certifications that there were no human rights abuses in El Salvador that would make U.S. military assistance to its government unlawful. (Corbett, 133-134)

In response to this ongoing crisis, volunteers from a wide variety of faiths and backgrounds mobilized to assist refugees cross the border from Mexico into the United States, where they might find asylum and sanctuary, or move on to Canada. One of the initial ways of crossing the border was by crossing through the Sonoran Desert accompanied by goats (hence the term 'goatwalking'). As with the Civil Rights movement, churches were involved in organizing these activities from the beginning. A declaration of sanctuary to refugees from El Salvador and Guatemala was issued by the National Council of Churches of Christ, which asserts the moral right of conscience to aid refugees in spite of U.S. government prohibitions from providing it.

> For the most part, the U.S. public will see the fundamental moral and religious issues posed by this refugee influx only if the institutions and public figures to whom Americans commonly look for moral and religious guidance do assert, in action, the right of conscience to aid anyone fleeing from torture and murder. Specifically, public awareness and sympathy depend on the willingness of clergy and religious organizations to defy U.S. government prohibitions against aiding undocumented refugees.[43]

Declarations of this kind function similarly to the requirement of civil disobedience to appeal to principles of public conscience. But here the question is not so much one of violating law as it is of upholding it. Specifically, it is the act of taking initiative to protect the vulnerable from torture and murder, against governmental regulations, in accordance with treaties and international agreements which that government is presently violating. I believe it would be a slight mischaracterization of this practice to call it 'civil disobedience,' when it encompasses acts in accordance with the moral obligation to protect the vulnerable, as well as in accordance with customary norms of international law, ratified treaties, and federal law, even as the government being defied is violating its own federal statues and international

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[43] Cited in Corbett (135).

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agreements. It is exposing a rather large gap between U.S. declarations about human rights and the ratification of treaties on the one hand, and the meaningful promotion and protection of human rights on the other.

Another interesting aspect of this case is the extent to which those who violated U.S. prohibitions on aiding asylum seekers from El Salvador and Guatemala did so publicly. On the one hand, they publicized their convictions and their activities. On the other hand, they are not exactly walking up to U.S. border patrol agents and saying, "Hey there, we've got an asylum seeker here from El Salvador with no papers whose family was murdered by a dictator the U.S. military supports and who, if returned to her country, will most certainly face kidnapping, torture, and possibly rape and murder as well. May we pass on through?" Instead, their activities (especially at the beginning), despite the publicity of the declaration of sanctuary, were somewhat clandestine, and intentionally involved evasion of authorities. This, too, means that they were not participating in civil disobedience according to the traditional definition, depending on how we interpret the claim that civil disobedience must be undertaken openly. While it may not be civil disobedience, it is clearly nonviolent resistance.

This raises questions about the nature and extent of the publicity condition on civil disobedience. The declaration of sanctuary is certainly public, in that it is a publication. And the network of churches took place in a semi-public fashion, at least not in a tremendously clandestine one. However, the actually dangerous activity of crossing borderlands with refugees and asylum seekers coming into the United States, in order to be successful, had to be able to evade authorities, confronting them only when apprehended. This case presents a contrast case for civil disobedience, insofar as it is an attempt to *uphold* moral and international law while violating the law of a particular nation-state, and insofar as it *evades* run-ins with authorities rather than violating governmental restrictions in front of them.

Nevertheless, there are strong similarities in the spirit of civil disobedience and in this form of civil initiative. As the movement grew, it gained in both strength and publicity, but also became far more complicated. Eventually principles had to be agreed upon by those who

wished to aid the movement, for the sake of the success of the movement and the safety of those involved in it. This was intended to make sure sanctuary volunteers understood the risks and moral justification of their activities, and to control for infiltrators and *agents provocateurs*. I list these seven principles below.

> Seven Principles and Procedures that Guide the Sanctuary Practices of the Tucson Ecumenical Council's Task Force on Central America and the Tucson refugee support group (Trsg)[44]
>
> 1. Only persons who are fleeing persecution or life-threatening conditions of armed violence and who cannot safely remain in Mexico are helped by the Tucson refugee support group to cross the borderlands, but social and legal services are provided for arriving Central Americans by the Tucson Ecumenical Council Task Force on Central America, regardless of documentation or refugee status.
>
> 2. All refugees who need sanctuary services are helped, regardless of their political alignment or nationality. None is pressured to go to publicly declared sanctuaries or to speak out. All are informed of available options, provided with legal counsel, and allowed to choose their course.
>
> 3. The INS district director is informed by mail whenever Trsg helps refugees cross the borderlands. The nationality, age, and sex of refugees is provided, but not the name.
>
> 4. Trsg will neither buy help from *coyotes*[45] nor link its sanctuary services to individuals or organizations that smuggle undocumented refugees for financial or political profit.
>
> 5. In the event that Trsg volunteers are indicted for helping refugees, they agree to do no plea bargaining and to insist on a jury trial.
>
> 6. Volunteers agree to refuse to testify if called before a grand jury. (Refugees need to trust counselors; Mexican coworkers need anonymity; we would therefore betray our sanctuary ministry by secretly testifying about these matters to the very officials that are violating refugees' rights to safe haven and volunteers' rights to protect refugees. Also, we are open and ready to stand trial to establish the lawfulness of our activities, and our sanctuary procedures and activities are published and available, so calling sanctuary volunteers before a grand jury to betray refugees and coworkers would just be a political device to imprison subpoenaed sanctuary volunteers without trial.)
>
> 7. As changing circumstances require new adaptations, the evolution of Trsg/TEC sanctuary services is guided by principles of civil initiative, protecting human rights within rather than outside the law. (If federal officials continue to violate refugees' right to safe haven, the INS must now either validate sanctuary by failing to challenge our open practice or else put the church on trial until the courts finally rule that, as civil initiative, sanctuary is lawful. In any case, the sanctuary church will outlast presidential administrations and partisan judges.)

There are several components of these principles which deserve our attention. First, insofar as it intends to use the courts to prove its case, it is explicitly not civil disobedience as Rawls defines it. Rawls separates civil disobedience from "other forms of opposition to democratic

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[44] Reprinted in Jim Corbett, *Goatwalking* 171-172.

[45] Persons who engage in human smuggling, and who are often involved in prostitution rings, or who may take rewards for returning refugees.

authority. These range from legal demonstrations and infractions of law designed to raise test cases before the courts to militant action and organized resistance."[46] Since laws operate at different levels, it is not always clear whether someone violating a local law is in violation of a state or national law. For instance, civil rights activists were attempting to bring test cases to the courts, testing the constitutionality of segregation laws in the South. Similarly, as an infraction of a governmental mandate designed to raise test cases before the courts, the sanctuary movement is not civil disobedience according to Rawls's definition. Nor does the sanctuary movement consider itself to be civil disobedience, but rather civil initiative, "protecting human rights within rather than outside the law." The sanctuary movement can definitely be considered nonviolent resistance to governmental violations of human rights by providing aid and comfort to those in need, and assisting them in fleeing from persecution, in spite of falling short of the definition of civil disobedience.

Yet even if it cannot be considered a case of civil disobedience, some similarities are worth mentioning. First, note the publicity of their principles and the appeal to public conscience. This is similar to Rawls's concerns about the publicity of principles of justice. By making appeals and procedures public, its aims are made more clear. As to the questions of publicity and facing consequences, sanctuary movement workers are similar to civil disobedients, in that they "are open and ready to stand trial to establish the lawfulness of our activities." In addition, "sanctuary activities are published and available" (Corbett 172). There was also news coverage of the movement, which served to increase public awareness of the movement. By notifying the INS district director whenever they make a borderlands crossing with a refugee, Trsg are being somewhat open with authorities, but they also withhold some information (see 3). Withholding this information and refusing to testify to a grand jury if indicted are precautions for the safety and success of the movement, and do not represent full cooperation with authorities, even after apprehended. This is another example of what I have called selective publicity, and may be interpreted as deviating from the kind of publicity usually thought necessary for justified civil disobedience.

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[46] Rawls, *A Theory of Justice*, §55.

While sanctuary workers may be ready to stand trial, they do not seek out trial and punishment. Does civil disobedience recommend being ready to stand trial, or going out of one's way in order to stand trial? The answer depends on what "willingness to accept the legal consequences of one's act"[47] amounts to. I think the willingness to accept the legal consequences of one's actions is the more important element than intentionally seeking unjust punishment. If I am correct, then neither civil disobedience nor civil initiative requires going out of one's way to attract punishment. It simply means that in engaging in these activities, one is accepting the risk that one's conduct might result in unjust imprisonment. It suggests to those engaging in civil disobedience that they should accept that risk. If apprehended, challenges in the courts can potentially modify the existing national laws. By giving the state the option to rectify contradictions between declarations and actions, the sanctuary movement also demonstrates respect for the law (more so than the government it challenges), similar to practices of civil disobedience. Thus, although civil initiative is different from civil disobedience, it does share some features.

In sum, the sanctuary movement, while it has numerous similarities to civil disobedience, is not an instance of it. It fails the definition, because it is not so much a case of disobeying a law as it is of fulfilling one. It also calls into question the nature and extent of the publicity condition of the traditional conception of civil disobedience, finding limits for that condition. It examines the issue of willingness to submit to unjust punishment, and finds it to be better characterized as an acceptable risk for doing what one thinks is right, rather than being an explicit aim of resistance to be ensnared by states engaged in perpetuating systematic injustices. While the sanctuary movement might not count as a paradigm case of civil disobedience, I think it can rightfully be considered as falling within the scope of nonviolent resistance. It might also be considered an innovative example of civil disobedience, and might be considered part of a larger tradition of civil disobedience. In the case of the sanctuary movement, they appealed to treaties upheld by international law to justify their violations of federal law in the United States. This is similar to the civil rights

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[47] Rawls *A Theory of Justice* (322).

movement, which aimed to point out tensions between the promise of freedom and equality in the United States and the unequal segregation laws in Southern states that applied to different portions of the population differently. Some see the Civil Rights movement primarily as a constitutional challenge, that is, a series of court cases. If the determination is that segregation laws are unconstitutional, then they are invalid laws, and thus Civil Rights activists upheld federal even as they broke state law. The sanctuary movement is analogous in violating federal law in upholding international law. Whether or not we call this innovative civil disobedience, it certainly appears to be a clear case of nonviolent resistance.

Like PWYC community cafes, the sanctuary movement is another example of building a community. It sparks a conversation of concern for human rights. Since human rights concern everyone, we need as many people to be involved in this community conversation as possible. Thus we can pursue universalist aims through local pragmatic solutions to commonly recognized problems. The scope of the term 'community' for individual PWYC community cafes may be somewhat geographically determinate, but the aim of the cafes is universal, as indicated by many of the names of the organizations (One World Everybody Eats, So All May Eat, and so on). The community formed by the sanctuary movement is also envisioned as universal, in that it pertains to protections of basic human rights shared by everyone. These examples also demonstrate that communities exist not so much in agreement among conceptions of the good, but rather in action around common concerns recognized by people from various backgrounds.

c. Monkeywrenching

Monkeywrenching is a name given to practices of resistance that involve violations of the law and sometimes willful destruction of property. The act of monkeywrenching involves sabotaging mining and other construction or industrial equipment so as to make development too costly to be worth continuing. It is a deliberate strategy of attrition. Dave Foreman, in *Ecodefense: A Field Guide to Monkeywrenching*, first describes the environmental landscape of 150 years ago, and then points out the vast amount of destruction of habitat,

elimination of species, severe reduction of animal populations (10-17). He then goes through several aspects of monkeywrenching aimed at addressing these problems.

This is a contrast case for civil disobedience for two reasons. First, monkeywrenchers, while they may be willing to accept the risks associated with being caught destroying 'property,' they are certainly far from attempting to commit these acts in front of authorities. In that respect monkeywrenching is similar to goatwalking. The second reason this is a contrast case for civil disobedience is that it calls into question the clause of 'nonviolence'. According to Foreman, there are several elements of monkeywrenching, but he explicitly characterizes it as nonviolent resistance. Because this case also has several elements in common as well as a few contrasts with the sanctuary movement, I again quote at some length.

Monkeywrenching is Nonviolent
Monkeywrenching is nonviolent resistance to the destruction of natural diversity and wilderness. It is not directed toward harming human beings or other forms of life. It is aimed at inanimate machines and tools. Care is always taken to minimize any possible threat to other people (and to the monkeywrenchers themselves).

Monkeywrenching is Not Organized
There can be no central direction or organization to monkeywrenching. Any type of network would invite infiltration, *agents provocateurs* and repression. It is truly individual action. Because of this, communication among monkeywrenchers is difficult and dangerous. Anonymous discussion…seems to be the safest avenue of communication to refine techniques.

Monkeywrenching is Targeted
Ecodefenders pick their targets. Mindless, erratic vandalism is counterproductive. Monkeywrenchers know they that do not stop a specific logging sale by destroying any piece of logging equipment they come across. They make sure it belongs to the proper culprit. They ask themselves what is the most vulnerable point of a wilderness-destroying project and strike there. Senseless vandalism leads to a loss of popular sympathy.

Monkeywrenching is Timely
There is a proper time and place for monkeywrenching. There are also times when monkeywrenching may be counterproductive. Monkeywrenchers generally should not act when there is a nonviolent civil disobedience action (a blockade, etc.) taking place against the opposed project… The Earth warrior always thinks: Will monkeywrenching help or hinder the protection of this place?

Monkeywrenching is Dispersed
Monkeywrenching is a widespread movement across the United States. Government agencies and wilderness despoilers from Maine to Hawaii know that their destruction of natural diversity may be met with resistance. Nation-wide monkeywrenching is what will hasten overall industrial retreat from wild areas.

Monkeywrenching is Diverse
All kinds of people in all kinds of situations can be monkeywrenchers. Some pick a large area of wild country, declare it wilderness in their own minds, and resist any intrusion against it. Others specialize against logging or ORV's [off-road-vehicles] in a variety of areas. Certain monkeywrenchers may target a specific project, such as a giant powerline, construction of a

road, or an oil operation. Some operate in their backyards, others lie low at home and plan their ecotage a thousand miles away. Some are loners, others operate in small groups.

Monkeywrenching is Fun

Although it is serious and potentially dangerous activity, monkeywrenching is also fun…

Monkeywrenching is Not Revolutionary

It does *not* aim to overthrow any social, political or economic system. It is merely nonviolent self-defense of the wild. It is aimed at keeping industrial 'civilization' out of natural areas and causing its retreat from areas that should be wild. It is not major industrial sabotage. Explosives, firearms and other dangerous tools are usually avoided. They invite greater scrutiny from law enforcement agencies, repression and loss of public support. (The Direct Action group in Canada is a good example of what monkeywrenching is *not*.) Even Republicans monkeywrench.

Monkeywrenching is Simple

The simplest possible tool is used. The safest tactic is employed. Except when necessary, elaborate commando operations are avoided. The most effective means for stopping the destruction of the wild are generally the simplest: spiking trees and spiking roads. There are obviously times when more detailed and complicated operations are called for. But the monkeywrencher thinks: What is the simplest way to do this?

Monkeywrenching is Deliberate and Ethical

Monkeywrenching is not something to do cavalierly. Monkeywrenchers are very conscious of the gravity of what they do. They are deliberate about taking such a serious step. They are thoughtful. Monkeywrenchers—although nonviolent—are warriors. They are exposing themselves to possible arrest or injury. They keep a pure heart and mind about it. They remember that they are engaged in the most moral of all actions: protecting life, defending the Earth.

While monkeywrenching is nonviolent resistance, it cannot be civil disobedience, insofar as its publication is minimal, it is not undertaken openly or in public, and monkeywrenchers evade authorities wherever possible (while accepting the risk of repression). We might reasonably expect monkeywrenchers to accept the risk of their activities, but it is far from clear whether they are prepared to stand trial or refuse to testify to a grand jury if indicted. As nonviolent resistance, as opposed to civil disobedience, it is quite clear what is being opposed. Again, for the safety and success of the movement, some secrecy is called for, and networking is kept to a minimum, although there are certainly expressive public elements appealing to public sentiment (e.g., monkeywrenching is targeted and timely). This is also a good case of dispersed nonviolent resistance, contrasting with the traditional theory of civil disobedience that primarily focuses on tactics of concentration.

Finally while there is explicit acknowledgment of the risks of monkeywrenching, there is no commitment expressed to 'accept the punishment.' This, in addition to remaining somewhat out of view of authorities, disqualifies monkeywrenching as civil disobedience. Although

there is perhaps no generic formula to which we can appeal that would give us clear determinations about which kinds of monkeywrenching are morally justified and which not, Foreman provides us with several moral considerations, including safety, not tarnishing public relations, not unnecessarily antagonizing law enforcement, and so on, that can aid is in determining in particular circumstances whether a particular act of monkeywrenching was morally justified. At the same time there is a communicative element in it, as it poses questions about proprieties of business, commerce, and industrial 'civilization' which are more often than not taken for granted, but which are directly responsible for many of the environmental problems we face.

Earlier I argued that the extent to which nonviolent resistance morally ought to be public should be constrained by the likelihood and severity of regime repression in response to that resistance. Those engaged in the art of monkeywrenching have often been designated as terrorists, which designation (at least in the United States) licenses a number of exceedingly repressive measures, including wiretapping, and even suspension of habeas corpus.[48] I believe for these reasons monkeywrenchers are morally justified in being discrete and dispersed, and in evading where necessary authorities intent on violating their civil rights.

A question that may remain for some readers is how nonviolence is defined such that monkeywrenching counts as nonviolent. For instance, in *Analyzing Oppression*, Ann Cudd defines violence as follows: "the intentional, forceful infliction of physical harm or abuse on one or more persons or their material or animal possessions" (2006, 87). Under this definition, the destruction of material possessions (say, the material possessions of construction companies, composed of one or more persons) that is often involved in monkeywrenching constitutes violence. On the other hand, monkeywrenching defines itself as nonviolent. Which interpretation is correct?

The reasons monkeywrenchers consider themselves to be nonviolent is that they act to protect against "the destruction of natural diversity and wilderness." The question, then, is

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[48] See Will Potter (2011), *Green is the New Red: An Insider's Account of a Social Movement Under Siege*. City Lights Books, San Francisco.

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whether this protection amounts to violent self- or other-defense. Well, since "It is not directed toward harming human beings or other forms of life," it might for that reason fail to meet the 'intentional, forceful infliction of physical harm' clause of Cudd's definition. While Cudd's definition seems fit to consider destruction of a person's favorite object (say, a cherished item from childhood) as violent, it is less clear whether it is appropriate to consider the destruction of machines while avoiding harm to people and other forms of life as violent. It seems to me that it should only count as violent if we are willing to consider corporations as persons, which is dubious at best, and is associated with numerous social problems that undermine our economy and the democratic process in the United States generally.

Now, monkeywrenchers do not always avoid publicity; otherwise nobody would have heard of them. Rather, they make their actions public only after having committed them, and do not always seek out punishment. And it is not as though their demands are exactly concealed from the corporations they fight. When they publicize their actions, they make known why they are doing what they are doing. Again it does not follow the model Rawls raises for civil disobedience, but it does appear consistent with at least some accounts of civil disobedience.[49]

To sum up, monkeywrenching, while nonviolent resistance, is not civil disobedience, insofar as it evades authorities, is done with only selective publicity, and is dispersed as opposed to concentrated. Yet it nevertheless appeals to public conscience, as monkeywrenchers accept the risk of doing what they think is right. As a pragmatic endeavor, efforts are made to ensure the safety and success of the movement by the dispersion of tactics, and by courting public sentiment. This is another reason I prefer to speak of nonviolent resistance to civil disobedience: The range of tactics and pragmatic considerations that are afforded is much richer than that afforded by civil disobedience, and it encompasses a far wider range of available practices and tactics than does civil disobedience, and as such is a much more useful concept for communicating strategies of social change to the public.

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[49] See, for instance, Kimberley Brownlee's *Conscience and Conviction: The Case for Civil Disobedience*.

Conclusion

I hope to have provided reasons for believing that the concept of nonviolent resistance is more versatile, more applicable, and more useful than is the concept of civil disobedience. The examples are meant to demonstrate the wide variety of available tactics of resistance from those above board to high-risk violations of the law. By contrasting these cases of nonviolent resistance to civil disobedience, I hope to have shown why the constraints set on the justification of civil disobedience need not apply to nonviolent resistance, and that for this reason speaking of nonviolent resistance raises more substantial and interesting questions than does the concept of civil disobedience.

At the same time, I hope to have shown that there is dissent and contestation within communities, but that commonly recognized problems and solutions can cross ideological and other societal boundaries to successful communication and reciprocal involvement. I also hope to have modified the interpretation of requirements of publicity and willingness to sacrifice for nonviolent resistance movements, showing that the moral barriers to participation vary depending on the social movement in more ways than are recognized in civil disobedience discourse. Finally, I hope to have provided models for social challenge and change, in the hopes that these strategies may be adopted by the public, and that civic engagement and challenge be increased to a level that asks us who we are, what we stand for, what we are doing, what problems we face, and what we are going to do about them.

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