SEVEN

MARXISM, MORAL RELATIVISM, AND MORAL OBJECTIVITY

The final issue concerning the relation between Marxism and morality I shall consider is whether Marx and Marxists are committed to some form or other of moral or ethical relativism. If so, it would seem that there are no "absolute" or absolutely objective moral principles (or standards) and, consequently, that no moral judgments—including those underlying the Marxist's normative political positions—are well-founded. I hope to show that though Marx and especially Engels sometimes speak as though they accept this thesis, once one distinguishes ethical relativism proper (i.e., normative ethical relativism) from descriptive ethical relativism, on the one hand, and metaethical and metaevaluative relativism, on the other, it is not clear that they do. (The concept of metaevaluative relativism is introduced in this chapter in order to distinguish between two forms of relativism that are usually both included under the term metaethical relativism. Both concepts will be explicated as we go along.)

What is clear, I hope to show, is (1) descriptive ethical relativism is true but uninteresting; (2) normative ethical relativism is an untenable position; and, most importantly, (3) no matter what position Marx and Engels can be construed as taking on the issue of metaethical or metaevaluative relativism, it does not vitiate their substantive moral critique of capitalism (and of exploitative, oppressive, inhumane social institutions in general) nor their substantive moral commendations of socialism and communism.

In the second section of the present chapter I shall take up the related question of the justification of moral judgments and principles, or what is sometimes called the question of "moral objectivity." This will necessarily lead us to a consideration of what is perhaps the most sophisticated recent attempt at an answer to this question, namely, to a consideration of John Rawls' two-pronged approach: (1) the method of reflective equilibrium and (2) the strategy of the original position (a hypothetical choice theory). Certain objections to both methods or strategies will be considered, and an attempt will be made to determine if either method (or both in conjunction) can assure the objectivity of our moral judgments and principles, where "objectivity" is interpreted as unanimous intersubjective agreement or consensus. Finally, the third section examines the implications of distinguishing the possibility of a theoretical (i.e., hypothetical) consensus from a practical (i.e., actual) consensus on such matters.

Much of the present chapter involves rather detailed discussions of recent and contemporary metaethical theories. I hope the relevance of these discussions to the assessment of Marxist moral and social theory will become apparent as we proceed. In large measure, the present chapter is designed to lay out a theory of moral justification and/or objectivity in general, not a theory of moral justification and/or objectivity for Marxism in particular. However, attention is paid to various positions on these issues taken (or seemingly taken) by Marx, Engels, and other Marxists, and an attempt is made to apply the metaethical theory that is developed to Marxist moral and social theory.

This chapter is also the first part of this work—but not the last—to pay a substantial amount of attention to the theories of John Rawls. Although no attempt is made to defend Rawls' theories at this point, or show exactly how they might fit in with an adequate Marxist moral and social theory, these matters are attended to in chapters 9 and 10 respectively.

Marx, Engels, and Moral Relativism

Is Marxism committed to some form of ethical relativism? If so, the argument goes, Marxists cannot claim that their moral judgments or the normative political positions they underlie and uphold are objective. And if these judgments or principles are not objective, the argument continues, there is no reason for any rational person to consider herself or himself bound by them.

To answer this objection is no simple matter. We shall first have to distinguish the various forms of ethical relativism and then ask: (1) to which forms (if any) is the Marxist committed; (2) which forms (if any) are viable; and, if any are viable, (3) which of these are really destructive of moral objectivity and thus destructive of
the Marxist's (and presumably everyone else's) ability to justify his or her moral standards or principles? The answers to these questions will show that though there may be some form of metaethical or metaevaluative relativism that is ultimately irrefutable, this does not mean that our considered moral judgments and principles are necessarily irrational, subjective, or arbitrary. Perhaps more importantly for our purposes, the analysis given will show that accepting the Marxist’s empirical theories and evaluative framework does not put one in an untenable position vis-à-vis defending one’s moral judgments and principles.

The problem of ethical relativism is more obviously a difficulty for Marxism than for most other schools of social and political thought because Marxism seems committed to a strong deterministic relation between the moral views of a society and its socioeconomic structures. This relation between the socioeconomic base and social consciousness or ideology, in general, is alluded to in the “Communist Manifesto” when Marx asks, “Does it require deep intuition to comprehend that man’s ideas, views, and conceptions, in a word, man’s consciousness, changes with every change in the conditions of his material existence, in his social relations and in his social life?”

Nevertheless, we should not make too much of this as a difference between Marxist and non-Marxist social theory. After all, virtually all schools of social theory recognize some sort of causal relation between social and economic structures, on the one hand, and ideologies or social consciousness, on the other. Furthermore—as mentioned in previous chapters—there are in Marx’s writings a number of distinguishable models of the relation between the socioeconomic base and political and ideological superstructure of societies. Sometimes it seems as though he accords morality an independent and even a causal role, as in the preface to the first German edition of Capital, where he claims that socialist revolutionaries will be driven by both self-interest and “higher motives.” But it is the more commonly accepted view that Marx’s theory of ideology applies to morality as well as other areas of human culture and cognition, and that this raises suspicions concerning its validity or objectivity. This view is put forward, among other places, in Anti-Dühring, where Engels states:

If we have not made much progress with truth and error, we can make even less with good and bad. This antithesis belongs exclusively to the domain belonging to the history of mankind, and it is precisely in this field that final and ultimate truths are most sparsely sown. The conceptions of good and bad have varied so much from nation to nation and from age to age that they have often been in direct contradiction to each other. But all the same, someone may object, good is not bad and bad is not good; if good is confused with bad there is an end to all morality, and everyone can do and leave undone whatever he cares.

In the next paragraph, he states that

when we see that the three classes of modern society, the feudal aristocracy, the bourgeoisie and the proletariat, each have their special morality, we can only draw the conclusion, that men consciously or unconsciously, derive their moral ideas in the last resort from the practical relations on which their class position is based—from the economic relations in which they carry on production and exchange.

Speaking for those who accept historical materialism, Engels concludes:

We therefore reject every attempt to impose on us any moral dogma whatsoever as an eternal, ultimate, and forever immutable moral law on the pretext that the moral world too has its permanent principles which transcend history and the differences between nations. We maintain on the contrary that all former moral theories are the product, in the last analysis, of the economic stage which society had reached at that par-

\[1\] Marx and Engels, “Manifesto of the Communist Party,” p. 351.
\[2\] Marx was one of the key sources of these commonly accepted views. As Svetozar Stojanović notes: “Marx correctly stressed the influence of the economic, especially of the class-economic, position of man upon his morality. One’s moral views often really are ideological rationalizations of his economic class interests. If today we try to penetrate and formally identify different contents expressing and rationalizing different social interests, it is at least partially due to the impact of Marx. His idea of the ruling morality as the ruling class morality may also be fruitful. All these ideas are, in my opinion, important for ethics and particularly for the sociology of morals. It may be that they are commonplace now, if they are, it is to Marx’s credit.” [*Marx’s Theory of Ethics,* p. 168].


\[4\] Ibid., p. 104.
ticular epoch. And as society has hitherto moved in class antagonisms, morality was always a class morality.\footnote{Ibid., pp. 104-105.}

But to what sort of ethical relativism—if any—does this commit Engels? Here we must distinguish four sorts of relativism: descriptive, normative, metaethical, and metaevaluative.

Descriptive ethical relativism is the doctrine that what people believe to be right or wrong differs from individual to individual, society to society, or culture to culture.

Normative ethical relativism is the doctrine that what is right or wrong differs from individual to individual, society to society, or culture to culture (because what people believe to be right or wrong determines what is right or wrong for them).

Metaethical relativism is the doctrine that there is no sure way to prove (to everyone's satisfaction) what is morally right or wrong. That is, even if everyone were perfectly rational, conceptually clear, fully informed of the facts, and accepted the moral point of view, this would not ensure that they would agree on one unique set of moral principles as correct—let alone agree on the relative weight of the moral principles or how to apply them in each concrete case.

Metaevaluative relativism is the doctrine that there is no sure way to prove (to everyone's satisfaction) what is right or wrong. That is, even if everyone were perfectly rational, conceptually clear, and fully informed of the facts, this would not ensure that they would agree on one unique set of normative principles as correct—let alone agree on the relative weight of the normative principles or how to apply them in each concrete case.

Although the differences between the mores (i.e., accepted moral norms) of different individuals, societies, or cultures are sometimes exaggerated, since different "surface" actions may express the same underlying moral norm (or rule), descriptive ethical relativism seems undoubtedly true. But admitting that different individuals, etc., have different views of right and wrong does not entail that what is right and wrong actually differs any more than the fact that different individuals have different views on the issue of whether or not the earth is flat entails that what is true about the shape of the earth actually differs. It makes perfect sense to say that although some individual, culture, or society believes that something is morally right or wrong, it is not, in fact, morally right or wrong (as the case may be).

Thus, even if true, the thesis of descriptive ethical relativism is trivial and, for purposes of moral philosophy or thinking, simply irrelevant. (None of this, however, entails an intolerant attitude toward the moral practices or rules of other individuals, cultures, or societies. We may well want to adopt a principle of moral tolerance that rules out interference with other individuals, societies, or cultures except, say, in cases of violations of basic rights of others.)

On the other hand, both normative ethical relativism and the two "meta" relativisms are significant and relevant, but of these only the first is especially pernicious. Even if metaethical or metaevaluative relativism must ultimately be accepted, it may be that only a very few people who meet the requisite conditions would fail to agree on the correct set of moral or normative principles. Furthermore, regardless of the degree of consensus that could be expected in these hypothetical-choice situations, the acceptance of the doctrines of metaethical and/or metaevaluative relativism in no way prevents us from claiming that a certain moral principle (e.g., "slaughtering defenseless infants is prima facie wrong") is right and that any principle or action to the contrary is simply wrong.

The acceptance of normative ethical relativism, however, is pernicious because it would prevent us from sensibly claiming that certain moral principles are correct and actions that violate them are wrong. According to this doctrine, if some individual, culture, or society believes that slaughtering defenseless infants merely for fun is morally permissible, then it is morally permissible (for them).

But are Marx, Engels, or any other Marxist committed to normative ethical relativism? This doctrine, as said above, is the thesis that what really is right and wrong can differ between persons. Versions of the doctrine differ in terms of whether reference is made only to the criteria of moral goodness or rightness held by persons per se, or to the criteria of moral goodness or rightness accepted by the cultures or societies in which they live. In the first case, one and the same action (for example) can be right for one person and wrong for another even within the same culture or society, depending on the criteria of moral rightness or principles of moral relevance they happen to accept. In the second case, one and the same action can be right and wrong only with reference to persons belonging to different cultures or societies whose criteria of moral rightness or principles of moral relevance differ. Among contemporary Anglo-American philosophers, Gilbert Harman can be singled out as a proponent of the former position and members
of the so-called Swansett School of ethical theory (D. Z. Phillips, H. O. Mounce, R. W. Beardsmore et al.) as proponents of the latter.\textsuperscript{6}

Milton Fisk—a contemporary Marxian ethical theorist within the Anglo-American tradition—attempts to adapt the second perspective to Marxist social theory by substituting classes for cultures or societies. “Validity in general is relative to classes,” writes Fisk. “One should, then, choose to realize the principle [of justice and morality] only if it is valid relative to one’s class.”\textsuperscript{7} Thus what is morally right and wrong, good or bad is determined by the criteria accepted by the class to which one belongs—or at least by the criteria that are in accord with the objective interests of one’s class such that they would be accepted by individuals of that class were they fully aware of the facts and not deluded by foreign class ideologies. There are certain difficulties with this thesis. First, as pointed out in chapter 5, one’s own personal interests may not be in accord with one’s class interests. Furthermore, to speak of a class’s interests (even its “objective” interests) is already to make a moral or at least evaluative judgment. But the main difficulty is simply that Fisk endorses a form of ethical relativism that seems to prevent one from condemning the evil actions of persons so long as they are done in accordance with their own class interests. But if we cannot condemn a group of capitalists or their allies in the power elite for, say, ordering the torture or massacre of workers or peasants or the brutal suppression of their organizations, something seems amiss.

But the fatal flaw that all of these versions of normative ethical relativism have in common is the position that whether or not a moral principle is correct depends on one’s point of view. The normative ethical relativist claims that a particular moral principle can be correct for some and not correct for others, and no one can meaningfully assert that one’s principle is correct and one’s opponent’s principle is wrong. They are both correct in this view! Consequently, one and the same moral principle—for example, that causing innocent persons pain for no good reason is morally wrong or that property rights are indefeasible before any and all

other moral considerations—can be both true and false, correct and incorrect. When portrayed in this fashion, this position is easily reduced to absurdity.

Consider, for example, the following argument:

1. If someone believes it is morally permissible for him to torture another person, then it is morally permissible for him.
2. If someone is doing something that is morally permissible for him to do, then we have a moral obligation not to interfere.
3. Therefore, so long as the torturer believes he is morally right, we have an obligation not to interfere with his actions.

The first premise is simply an application of the normative ethical relativist’s position. The second premise is a necessary truth flowing from the definition of “morally permissible.” The conclusion follows deductively from the premises but, presumably, none of us will find it acceptable since it claims that we cannot interfere with the torturer and save the victim from his heinous acts even if we could do so at no risk to ourselves! But if the conclusion is unacceptable (i.e., false), then—since the argument is valid—one or more of the premises must be false. Since we have already seen that the second premise is a necessary (or definitional) truth, we must conclude that the first premise is false. And since the first premise is merely an application of normative ethical relativism, it follows that normative ethical relativism is false. Thus this position has been reduced to absurdity.

Nevertheless, this position has been held by a great many theorists who were determined not to accept the view that portrays morality as eternal, transcendental, or in some sense beyond both nature and humanity. Among Classical Marxists, for example, Karl Kautsky seems to endorse this position when he states:

As all morality is relative, that which is called immorality is simply a deviating kind of morality. . . . so far as moral standards are concerned, there is just as little an absolute morality as an absolute immorality. . . . It is thus nonsense to declare particular moral principles of any people or class which are recognized as such, to be immoral simply because they contradict our moral code.\textsuperscript{8}


\textsuperscript{7} Fisk, Ethics and Socioe., p. 235. Even though I disagree with Fisk’s position on this moral issue, I find myself in agreement with most of the normative positions he takes.

\textsuperscript{8} Kautsky, Ethics and the Materialist Conception of History, pp. 192–193.
Although—as we shall see shortly—it does not seem that Marx or Engels subscribed to the doctrine of normative ethical relativism, if they did, we should have to say that they, like Kautsky, were mistaken: mistaken not because there exists a transcendent realm of eternal values that people intuit or in some way have access to, but because it is simply part of the logic of moral discourse that we cannot meaningfully claim that a moral judgment or principle is both correct and incorrect. This is simply a consequence of taking moral judgments to have the formal property that R. M. Hare and others call “universalizability.” As Bernard Mayo explicates this principle in *Ethics and the Moral Life*:

A moral judgment must be universalisable, firstly, in the sense that it applies not to a particular action, but to a class of actions; this is involved in the meaning of “principle” or rule. Secondly, it must be universalisable in the sense that it applies not only to me but to you; not only to you but to me; not only to us but everybody; this is involved in speaking of moral principles as opposed to maxims or private policies. And thirdly, a moral judgment must be “universalisable” in the sense that others besides the speaker are assumed to share it. To illustrate: when I say “It was wrong of you to torment that animal,” I must be prepared to extend my judgment to all cases of tormenting animals (universalisability 1); I must be prepared to apply the principle, not only to give a verdict on your action, but also upon my own, and to come to decisions in the light of it (universalisability 2); and I must expect, or at least invite, assent to the principle on your part, and on the part of an indefinite community of moral beings like ourselves.  

Thus, if we maintain that a certain sort of action is morally impermissible (or permissible but not obligatory, or obligatory) for someone, then we must maintain that that sort of action is morally impermissible (or whatever) for anyone in similar circumstances. But here a brief explanatory note concerning his “universalisability 3” is necessary. Although his “universalisability 3” may seem to add social acceptance as a defining characteristic of moral principles, a closer reading of this passage reveals that such is not the case: he is not claiming, as some do, that social acceptance is a defin-
and prescriptivists, so long as they accept universalizability as a formal property of moral judgments.\footnote{It should perhaps be noted that such quasi-Hegelian communitarians and social philosophers as Alasdair MacIntyre and Charles Taylor endorse a closely related form of normative ethical relativism when they assert that the validity of moral principles or values is dependent upon their agreement with the accepted principles or values of the community or, in any case, that they are dependent upon their agreement with the "objective morality" (Hegel's Stättlichkeit) embodied in the community in question. (See MacIntyre, After Virtue and Charles Taylor, Hegel and Modern Society and "Hegel: History and Politics.") This kind of view seems susceptible to the objections I have raised in this chapter against the more straightforward versions of normative ethical relativism proposed by Harman and the Swansea School.)

To forestall a confusion that is bound to arise at this point, however, we should note that, contrary to what Hare claims, there is a distinction between the logical thesis of universalizability as just described and the thesis that in making a moral judgment one must take everyone's interests equally into consideration. While most of us will accept this latter thesis as a constraint on what we take to be considered or well-founded moral judgments, there is no reason, it would seem, to conclude that taking every person's interests equally into consideration is a defining characteristic of moral judgments per se. After all, there are many judgments we would normally refer to as moral judgments that do not meet this condition. Here I have in mind the judgments made by racists (or bigots in general) that obviously exclude such an equal consideration of interests. The racist who claims that Blacks or other minorities do not deserve the same sort of treatment as whites, the Nazi who claims that Jews ought to be exterminated, and the religious fanatic who shouts "Death to infidels" or "Heretics to the stake" would all seem to be making moral judgments, albeit moral judgments that very few of us would consider either well considered or correct. We may appeal to role-reversal arguments in an effort to refute such judgments, but, nevertheless, they count as moral judgments.

Now we may want to endorse the principle that one ought to give equal consideration to everyone's interests when making moral judgments, but if we do, we are making a substantive moral judgment rather than merely elucidating the defining characteristics of morality or moral principles or—at the very least—we are designating what we take to be a considered or well-founded moral judgment rather than a moral judgment simpliciter. But even if the logical thesis of universalizability makes it impossible to admit that what one defines as exactly similar actions can be both right and wrong or what we define as exactly similar agents or intentions both good and bad, thus vitiating normative ethical relativism, does not the real problem yet remain? Do not different individuals, societies, or cultures accept different sets of fundamental moral principles or even different views on what constitutes a basic good-making or right-making characteristic in moral contexts? And is there any reason to believe that all rational persons, or even all rational persons who accept the moral point of view, will agree on what is the correct set of moral principles or moral judgments? Is there any irrefutable method by which to arrive at objectively correct moral principles? If not, then even if we have won the battle against normative ethical relativism, we may have lost the war so far as obtaining moral objectivity is concerned.

As we proceed, we will want to keep in mind the distinction I have made between metaevaluative and metaethical relativism. Metaevaluative relativism is the position that it is not necessarily the case that all rational persons who are conceptually clear and fully informed of the facts will agree on which moral (or, more broadly,
normative) principles and judgments are correct. Notice that this formulation does not specify that the persons in question accept the moral point of view. Metaethical relativism, on the other hand, specifies that the persons in question accept the moral point of view. Thus metaethical relativism is the position that it is not necessarily the case that all rational persons who are conceptually clear and fully informed of the facts and who accept the moral points of view will agree on which moral (or normative) principles and judgments are correct.

Before examining the doctrines of metaevaluative and metaethical relativism in more detail, however, let us revert to Engels' treatment of morality in Anti-Dühring in order to assess whether or not he seems committed there to some form or other of ethical relativism. Although it is clear that some Marxists—like Kautsky—see the acceptance of historical materialism as committing them to normative ethical relativism, and it seems, at first glance, that Engels accepts the same conclusion since he states that one ought to reject all attempts to impose "any moral dogma as an eternal, ultimate, and forever immutable law," such is not the case. Although Engels, Marx, and most other Marxists are not at all clear about the issues involved, I know of no evidence that they, like Kautsky, see themselves bound to admit equal validity or correctness to any and all moral judgments. They certainly thought—whether or not they would have wanted to defend this position—that their moral judgments were correct and, for example, that those of their bourgeois opponents who did not view exploitation as a moral evil were wrong. Furthermore, in portions of the paragraphs in Anti-Dühring not yet quoted, we find Engels claiming:

That...there has on the whole been progress in morality, as in all other branches of human knowledge, cannot be doubted. But we have not yet passed beyond class morality. A really human morality which transcends class antagonisms and their legacies in thought becomes possible only at a stage of society which has not only overcome class contradictions but has even forgotten them in practical life.12

Here Engels not only seems to reject normative ethical relativism but seems to offer a method or at least a criterion by which to judge between conflicting sets of moral principles and thus circumvent metaethical and metaevaluative relativism. He makes this

criterion explicit three paragraphs earlier in the text when, discussing the conflicting moralities of the feudal aristocracy, bourgeoisie, and proletariat, he asks: "Which is then, the true one?" His answer is: "Not one of them in the sense of having absolute validity; but certainly that morality which contains the maximum of durable elements is the one which, in the present, represents the future: that is, the proletarian."13

But is this criterion for deciding between differing sets of fundamental moral principles adequate? Is it correct to assume, as Engels seems to assume here, that the moral principles that will evolve to govern human relations in the future are, ipso facto, better than those that have governed human relations in the past? The answer to this is no. Here Engels seems to be confusing the evolution of a correct set of moral principles with the evolution of a society within which the correct set of moral principles can be fully implemented or realized. Furthermore, if he is really claiming that whatever moral principles evolve are, ipso facto, good or correct or justified, we are committing the error of moral historicism or, more precisely, moral futurism, which, as we have seen in chapter 5, is rather easily debunked.

But if this suggestion will not still the objection of metaevaluative or metaethical relativism, and thus the claim that all moral principles have an equal lack of objectivity or validity, is there a suggestion that will work? The answer, which cuts across the differences between Marxists and non-Marxists, is "no." I shall argue, in the case of metaevaluative relativism and a qualified "no" in the case of metaethical relativism.

Let us first consider metaevaluative relativism. The question is, essentially, will all rational beings, merely by the fact that they are rational, agree on the correct set of moral (or normative) principles and judgments? If we accept a "thin," means-ends characterization of rationality—which I feel we must if we are to avoid begging substantive questions—then metaevaluative relativism is undoubtedly correct. To see that this is so, we need only consider actual or potential creatures who are rational in this respect but do not accept any set of moral principles or judgments we would even be tempted to see as correct.

First, consider a sociopath who lacks all common moral sentiments or "natural sympathies" but is instrumentally rational, or, better yet, the giant crablike creatures as imagined by H.L.A. Hart.

12 Engels, Anti-Dühring, p. 105.
13 Ibid., p. 105.
These creatures are perfectly rational but totally self-sufficient and impervious to harm inflicted by members of their own species. Thus they are totally lacking in the necessary sort of moral affections required for a being to be capable of considering things from a moral point of view. If such creatures consciously choose what they perceive to be the most efficient means to desired ends, there would seem no reason whatever to deny that they are rational beings even if they are incapable of any sort of empathy and thus incapable of considering things from a moral point of view. Fortunately for us, of course, most people do have at least a modicum of moral sentiments.

Consider next the ethical egoist. Although there have been perennial attempts to show the ethical egoist to be irrational, they all, I believe, have failed. The argument normally employed is that it is in the ethical egoist’s enlightened self-interest to be moral. But one can always think of situations in which this will not be the case. Furthermore, it seems that the most that can be shown is that it is in the self-interest of the ethical egoist to appear to be moral but not to abide by the moral rules whenever it is to his or her advantage not to do so. (An analogous difficulty plagues Hobbes’ argument that self-interested individuals ought to contract out of the state of nature into civil society because it is in their self-interest to do so. Why would the rational ethical egoist not promise to obey the sovereign—or at least utter words or sign a document to that effect—but intend to break that promise if and when it is to his or her advantage to do so?) The point is that in the general, action-guiding sense of the word “ought”—in the sense in which accepting the judgment that one ought to do something entails, all things being equal, that one will do it—there is no certainty that all rational agents (even all conceptually clear and fully informed rational agents) will agree on what one ought to do or even on what are relevant sorts of considerations in making such decisions. After all, one can always ask, “Why should I be moral?”—a question to which, as such disparate moral theorists as John Harswes and Kai Nielsen have argued, there is no adequate, noncircular answer. As Philippa Foot puts it, although we can convict amoralists or ethical egoists of villainy, we cannot necessarily convict them of irrationality. 14

To relate this position to the problematic of the Kantian tradi-


tion, we can say that that part of the categorical imperative suggesting that moral laws or principles are incumbent upon all rational beings merely by virtue of their rationality must be given up, even though its metaethical component (i.e., the thesis of universalizability) and its normative component (i.e., the claim that we ought always to treat individuals as ends and never as means only) may well be required by an adequate moral theory.

But what of metaethical relativism? Once we specify that the individuals in question accept the moral point of view, can this sort of relativism be defeated? This depends on what we mean by “accepting the moral point of view.” If we mean only that one accepts the proposition that the concept of morality has a certain material content such that we can rule out as moral principles such statements as “always act so as to create the sensation of red on green” or “never turn N.N.E. after facing S.S.W.,” then metaethical relativism probably cannot be defeated. Some contemporary moral philosophers disagree with this, however, and claim that the material content of the concept of morality is sufficient to generate moral standards. G. J. Warnock, for example, writes that certain standards—that is, the relevance at least of a particular range of considerations—though they do not have to be accepted at all, must be accepted if the claim to be evaluating morally is to be seriously made. 15

The idea is that since, for example, the causing of pain is always a relevant consideration for moral reasoning, such standards as “it is always prima facie wrong to cause pain” must be (analytically) true. The problem with this, however, is that it is logically possible for a person to recognize that pain is prototypically a human harm, and thus that it is always a relevant consideration in moral reasoning, but still reject the above-mentioned standard. It is logically possible, in other words, for a person to be both clear about the concept of morality and to be evil. The reason for this is that although the material content of the concept of morality distinguishes nonmoral from moral propositions, it does not distinguish immoral from moral (i.e., morally correct) propositions. Thus the claim that we ought to cause other people as much pain as possible is a moral as opposed to a nonmoral proposition, but, according to most of us, it is not a moral proposition as opposed to an immoral one. Therefore, the mere acceptance of this conceptual constraint

15 Warnock, Contemporary Moral Philosophy, p. 68.
does not ensure intersubjective agreement on morality on the part of all rational persons. Some persons may simply be evil.

On the other hand, if by “accepting the moral point of view” we mean, in part, accepting common conceptions of human harm and human good such that certain facts like “action A causes people unnecessary pain” always prima facie count against undertaking action A, then metaethical relativism can be defeated. But this rather obviously begs the substantive question. Furthermore, even those who accept the moral point of view in this sense cannot be expected to agree on the relative weight of different sorts of morally relevant considerations. (Later in this chapter we shall consider, as an example of this, the right-libertarian’s extremely strong commitment to property rights.)

That neither metaevaluative nor metaethical relativism can be soundly defeated is not necessarily a nihilistic or irrationalist point of view. It may not even mean that moral objectivity (in some sense) cannot be had. Furthermore, it certainly is not in conflict with the general Marxist view that members of different classes—even assuming they are perfectly rational—will, in all probability, accept different moral principles due to their different class positions and perspectives. The reason that a better society can and will evolve, according to Marx’s empirical, social-scientific theory, is not because all rational persons can and will reach agreement on a common moral code or normative political perspective, but because enough members of the working class, other exploited groups, and the allies they attract from other classes will be motivated by a combination of both prudential and moral considerations to strive in an organized way for such a society, namely, socialism. To think that social change is mainly a function of a change of moral attitudes or beliefs is, according to Marx and other Marxists, a grave mistake. It is, in fact, precisely the grounds on which Marx and Engels labeled Owen, Fourier, and Saint-Simon “utopian socialists.”

But—assuming Marxist empirical theory to be basically correct—are there not ways in which so-called bourgeois moral theorists, or supporters of capitalism in general, are prejudiced or deluded and the Marxist or proponents of socialism are not? Is there not some sense in which the Marxist’s moral judgments or principles are more objective than those of his bourgeois opponents? These considerations lead to an examination of methods of moral-theory construction and, particularly, an examination of what Rawls refers to as the method of reflective equilibrium. There is, however, one more matter we need to clear up before turning to the method of reflective equilibrium, namely, the nature or definition of moral objectivity. For while we have concluded that morality in general and Marxist moral views in particular are not susceptible to the criticism that they entail normative ethical relativism, we have not yet examined the concept of moral objectivity closely enough to decide precisely under what conditions we may call our moral judgments or principles “objective.”

Marxist, Reflective Equilibrium, and the Original Position

Marx, Engels, and most other pre-twentieth-century thinkers seemed to picture the “objectivity” of moral judgments and principles as consisting in some sort of correspondence between these judgments and principles and some set of transcendent or immanent values or principles just as the truth of a statement was (and still is) often thought to be a matter of its correspondence to some set of facts. Recent and contemporary philosophers, however, have increasingly come to reject this model of moral objectivity in favor of a theory or model of moral objectivity based on intersubjective agreement. In short, in order to avoid the metaphysical baggage of the old model and its other unattractive features, contemporary value theorists have tended to reduce objectivity to intersubjective validity. Marx and Engels, needless to say, never

16 This move from “objectivity” defined as correspondence to objective reality to “objectivity” defined as intersubjective agreement has not been confined to moral or evaluative contexts nor to Anglo-American philosophy. The great Pragmatist philosopher C. S. Peirce held this view, and such contemporary philosophers as Wilfrid Sellars, Richard Rorty, and Hilary Putnam have taken the truth (of factual, empirical, or descriptive-explanatory propositions) to be primarily a matter of intersubjective agreement or an ideal consensus rather than correspondence to an “objective” (nonlinguistic) set of facts or reality. See Wilfrid Sellars, Science, Perception, and Reality, Humanities Press, N.Y., 1963; Richard Rorty, Philosophy and the Mirror of Nature, Princeton University Press, Princeton, N. J., 1979; and Hilary Putnam, Reason, Truth and History, Cambridge University Press, N.Y., 1981. See also Thomas Nagel: “The Limits of Objectivity,” Tanner Lectures on Human Values, vol. 1 (S. McMurrin, ed.), Cambridge University Press, N.Y., 1980, and A View from Nowhere, Oxford University Press, N.Y., 1986.

Moreover, among contemporary Continental philosophers, Jurgen Habermas and Karl-Otto Apel have expressed similar views. Habermas appeals to an ideal consensus in explicating the notions of truth (and rationality) as a matter of the resolution reached during the course of a free dialogue. The work of Habermas is especially relevant for our present concern since his primary project is that of constructing a critical social theory capable of rationally describing and judging social institutions and arrangements. See Habermas, Theory and Practice, especially, “Introduction: Some Difficulties in the Attempt to Link Theory and Praxis.”
thought of things this way. But if they had, they might have been agreeable to this strategy since the positing of otherworldly, transcendent "eternal verities" or immanent self-realizing moral principles is thereby avoided.

Although contemporary value theorists are still at odds over whether moral claims are objective in this sense, today there is broad agreement that this is the correct account of moral objectivity. Some have suggested that the intersubjective agreement needed is an actual intersubjective agreement on moral principles of the society or culture in which one lives and have drawn the unpalatable conclusion that whatever moral principles are accepted by one's society or culture are, ipso facto, correct—at least for individuals living in those societies or cultures. This position is taken by those who are proponents of what Frankena calls a social morality, a conception of morality that sees such an agreement as not only necessary for the justification of moral principles but also definitive of moral judgments and principles per se. Others hold that while this sort of actual intersubjective agreement is not a definitive characteristic of a moral judgment or principle, it is a necessary condition for the justification of any moral judgment or principle; that is to say, if such a consensus does not exist, then the judgment or principle in question is, ipso facto, not justified.

One of the major difficulties of either version of this view is that it makes moral innovation or the having of an idiosyncratic moral code—or at least a justified idiosyncratic moral code—impossible. But this just doesn't seem to make sense. There is no reason, for example, to think that a Kantian moral code uniquely held by a member of a utilitarian-oriented society is not a moral code or that—for these reasons, at any rate—it is not a justified moral code.

A more promising approach is to make the intersubjective consensus needed for the justification or objectivity of moral principles a purely hypothetical one. Frankena, for example, takes this position. He claims that "a basic moral judgment, principle, or code is justified or 'true' if it is or will be agreed to by everyone who takes the moral point of view and is clearheaded and logical and knows all that is relevant about himself, mankind, and the universe." The only notion that may need clarification here is that of the "moral point of view." Although Frankena offers his own, somewhat more complex, characterization of the "moral point of view," for our purposes we can accept Kurt Baier's characterization. As Frankena summarizes it: "Baier . . . holds that one is taking the moral point of view if one is not being egoistic, one is doing things on principle, one is willing to universalise one's principles, and in doing so one considers the good of everyone alike."

(Notice that though Baier does not conflate the logical thesis of universalizability with giving equal consideration to everyone's interests, as does Hare, both factors—according to Baier and Frankena—enter into what it is to take the moral point of view and thus enter into the criteria a moral judgment must meet to be a considered moral judgment. Notice also that at this point we are giving a substantive content to the moral point of view and thus begging the substantive question against the immoralist. Our conclusions, in other words, will hold only for those who accept the moral point of view in this sense.)

But even if this is the proper view of moral "objectivity" and avoids all of the metaphysical baggage that Marx, Engels, and others so rightly object to, is there any reason to believe that our moral principles meet this condition? Is there any good reason to believe that any of our moral principles would be bound to garner this sort of unanimous intersubjective agreement under these hypothetical conditions? More specifically, is there any reason to believe—even assuming Marxist empirical theory to be basically correct—that the Marxist's moral and normative political judgments are any more objective or correct than those of, say, right-libertarian supporters of capitalism? These considerations necessarily lead to an examination of moral-theory construction and justification and, especially, to an examination of what is perhaps the most sophisticated and well-worked out example of such a theory: John Rawls' two-pronged approach (as presented in A Theory of Justice), which utilizes both the method of reflective equilibrium and a hypothetical choice method known as the strategy of the original position. Although these methods can be applied independently, they are intimately related in Rawls' theory. In A Theory of Justice, Rawls first explicates the strategy of the original position and then uses the method of reflective equilibrium to ascertain whether or not the constraints placed on the hypothetical choice situation are reasonable from a moral point of view.

Following the Classical Contract Theorists—Locke, Rousseau, and Kant—Rawls holds that

Frankena, Ethics, p. 112.

Ibid., p. 113.
the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. These principles are to regulate all further agreements; they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. This way of regarding the principles of justice I shall call justice as fairness.\[^{19}\]

In order to ensure “objectivity,” however, Rawls stipulates several conditions that are to characterize the parties in the original position. Not only are the parties free, rational, mutually disinterested, and in an initial position of equality (as are individuals in Hobbes’ and Locke’s “state of nature”), but they are nonenvious as well. Finally, they are behind a “veil of ignorance,” meaning that they have no knowledge of their own situation in the real world but only of general facts of society, history, and human nature. This last constraint on the decision-making procedure in the original position “ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain.”\[^{20}\]

To this Rawls adds:

Both autonomy and objectivity are characterized in a consistent way by reference to the original position. The idea of the initial situation is central to the whole theory and other basic notions are defined in terms of it. Thus, acting autonomously is acting from principles that we would consent to as free and equal rational beings. . . . Also, these principles are objective. They are the principles that we would want everyone (including ourselves) to follow were we to take up together the appropriate general point of view. The original position defines this perspective, and its conditions also embody those of objectivity: its stipulations express the restrictions on arguments that force us to consider the choice of principles unencumbered by the singularities of the circumstances in which we find ourselves\[^{21}\] [emphasis added].


\[^{20}\] Ibid., p. 12.

\[^{21}\] Ibid., p. 16.

But what does Rawls mean by “objective” and “objectivity” in this context? In claiming that the principles reached in the original position are objective because they are “the principles that we would want everyone (including ourselves) to follow were we to take up together the appropriate general point of view,” he would seem to be attributing to moral principles nothing more than the property of being universalizable. In a passage quoted previously, Mayo claimed that part of the notion of the universalizability of moral principles is that “I must expect, or at least invite, assent to the principle on your part and on the part of an indefinite community of moral beings like ourselves.”\[^{22}\] To simply meet this condition would not seem enough to be characterized as an “objective” principle.

If Rawls means by “objectivity” only that we must “consider the choice of principles unencumbered by the singularities of the circumstances in which we find ourselves,” he would seem to be demanding nothing more than impartiality—something that was demanded by Ideal Observer theorists such as Roderick Firth and by many other moral theorists in the history of philosophy. But even if impartiality is somehow a requirement of objectivity, it surely is not—in and of itself—a sufficient condition for it. I will here leave aside the criticism that the Ideal Observer theory and similar theories are vacuous unless substantive moral principles are somehow incorporated into them. Rawls, for his part, avoids this criticism simply by freely admitting that he does incorporate substantive moral principles into the hypothetical choice situation in his choice of the proper constraints. This is precisely why he is so concerned that we achieve the correct characterization of the original position.

The original position . . . unites in one conception a reasonably clear problem of choice with conditions that are widely recognized as fitting to impose on the adoption of moral principles. This initial situation combines the requisite clarity with the relevant ethical constraints.\[^{23}\]

Once we grasp this conception, we can at any time look at the social world from the required point of view. It suffices to reason in certain ways and to follow the conclusions reached. This standpoint is also objective and expresses our autonomy.\[^{24}\]

\[^{22}\] Mayo, p. 91.


\[^{24}\] Ibid., p. 587.
As mentioned previously, however, the "objectivity" of moral principles is today normally interpreted as (unanimous) intersubjective agreement, and this is what Rawls also seems to mean when using the terms "objective" or "objectivity" in this context. But, as Rawls points out, "From the standpoint of moral philosophy, the best account of a person's sense of justice is not the one which fits his judgments prior to his examining any conception of justice, but rather the one which matches his judgments in reflective equilibrium." The method of reflective equilibrium and the strategy of the original position are fused in Rawls' theory because "justice as fairness is the hypothesis that the principles which would be chosen in the original position are identical with those that match our considered judgments and so these principles describe our sense of justice."

It is important to realize, however, that these two methods are separate and distinct: one can accept the method of reflective equilibrium without accepting Rawls' strategy of the original position (or any other sort of hypothetical choice strategy) and vice versa. Joel Feinberg, for example, characterizes the general method of reflective equilibrium without reference to hypothetical choice situations as follows:

The best way to defend one's selection of principles is to show to which positions they commit one on . . . issues . . . General principles arise in the course of deliberations over particular problems, in the efforts to defend one's judgments by showing that they are consistent with what has gone before. If a principle commits one to an antecedently unacceptable judgment, then one has to modify or supplement the principle in a way that does the least damage to the harmony of one's particular and general opinions taken as a group. On the other hand, when a solid, well-entrenched principle entails a change in a particular judgment, the overriding claims of consistency may require that the judgment be adjusted.

Although Feinberg does not mention it in this passage, this method can be made even stronger by demanding that the moral judgments taken into consideration be only our considered moral judgments. One interpretation of "considered moral judgments" is those that we are willing to universalize and that meet Baier's

other conditions. (This might be interpreted to include projecting ourselves—a la Hare—into the worst possible position with respect to the universalized judgments and seeing if we still agree with them.)

But the point is that moral theories, on this view, are to be constructed on the hypothetico-deductive model of explanation, utilizing our considered moral judgments as the data base. We hypothesize certain principles that seem to systematize and be in accord with our considered moral judgments and then seek to "confirm" or, more importantly, "falsify" the hypotheses by seeing if our considered moral judgments agree or disagree with them. If too many of our considered moral judgments contradict the proposed principle, we must modify the principle or propose a new one. On the other hand, if we have a very powerful set of principles and then come across a rather mundane moral judgment or set of moral judgments that contradict it, we are likely to modify the moral judgments in question and maintain the principle. Finally, just as in science, there is the element of competition. We choose from among competing theories on the basis of which of them accounts best for the data (i.e., which is most in reflective equilibrium with our considered moral judgments) and which is the most comprehensive, economical, and elegant.

Given their materialist and naturalist predilections, Marxists might be receptive to this theory insofar as it rejects the direct (or indirect) apprehension of transcendent or immanent values and other idealistic baggage. But I suspect that they might also be tempted to reject it on the basis that it would seem to allow "bourgeois" philosophers or even fascists to construct theories in accordance with their moral intuitions or judgments that would be immune from criticism so long as they were internally coherent.

But Rawls is cognizant of this kind of difficulty, and in an attempt to avoid allowing biased or otherwise suspect moral judgments to enter into the process of reflective equilibrium, he suggests that we allow only our considered moral judgments as data where

considered judgments [are] . . . those judgments in which our moral capacities are most likely to be displayed without distortion. Thus in deciding which of our judgments to take into account we may reasonably select some and exclude others. For example, we can discard those judgments made with hesitation, or in which we have little confidence. Similarly, those
given when we are upset or frightened, or when we stand to gain one way or the other can be left aside. All these judgments are likely to be erroneous or to be influenced by an excessive attention to our own interests. Considered judgments are simply those rendered under conditions favorable to the exercise of the sense of justice, and therefore in circumstances where the more common excuses and explanations for making a mistake do not obtain.²⁸

The fact that some individuals and groups of individuals might emerge from the process of achieving reflective equilibrium with moral theories that, in reality, are merely rationalizations for unjust privileges and powers of those in socially dominant positions has led Marxist-oriented philosophers who reject foundationalist views of moral-theory construction in favor of coherence theories—and who are thus, attracted to the method of reflective equilibrium—to attempt to expand upon this suggestion made by Rawls. Norman Daniels, for example, argues that there must be more to moral justification of both judgments and principles than . . . simple coherence considerations, especially in the face of the many plausible bases for rejecting moral judgments; e.g., the judgments may only reflect class or cultural background, self-interest, or historical accident.²⁹

Once the foundational claim is removed . . . we have nothing more than a person’s moral opinion. It is a “considered” opinion, to be sure, but still only an opinion. Since such opinions are often the result of self-interest, self-deception, historical and cultural accident, hidden class bias, and so on, just systematizing some of them hardly seems a promising way to provide justification for them or for the principles that order them.³⁰

To alleviate this difficulty and help prevent the sort of tainted moral judgments he mentions from creeping into our moral theories, Daniels proposes that we allow general empirical considerations and theories to interact with our considered moral judgments at the level of the data base. The idea is that if we have good em-

³⁰ Ibid., p. 265.

empirical reasons to think that our moral judgments, even our considered moral judgments, are suspect in one of the above listed ways, then we may well reject them as unreliable data. Following Rawls, Daniels puts forward what he calls the method of wide reflective equilibrium.

Wide equilibrium closely resembles scientific practice. Neither in science nor in ethics do we merely “test” our theories against a predetermined, relatively fixed data. Rather, we continually reassess and reevaluate both the plausibility and the relevance of these data against theories we are inclined to accept. The possibility thus arises that these pressures for revision will free considered moral judgments from their vulnerability to many of the specific objections about bias and unreliability usually directed against them.³¹

Which judgments are thus deemed unreliable will differ according to the general empirical theories concerning moral-belief formation that are utilized. Psychoanalytic theory is, of course, one of the most commonly proposed. One application of this method by a contemporary Analytic Marxist, in an attempt to show that the Marxist’s moral judgments are less likely to be biased in these ways than those of the supporters of capitalism, revolves around the use of psychoanalytic theory to diagnose the self-interested rationalizations so often found in the moral intuitions and theories of privileged classes and castes. In his excellent article, “Marxism and Moral Objectivity,” William Shaw argues:

Social consciousness reflects social existence, but it is not, according to Marx, necessarily ideological. Definitions of ideology vary; on one plausible view, though, an ideological belief is one (a) whose believer remains ignorant of the real reasons for (or causes of) his holding it and (b) which would not be held if the believer ceased to be ignorant of these reasons. A bourgeois, for example, who held that capitalism is just, not for the reason he thinks he holds that belief (viz. that capitalism is in everyone’s best interest), but because his own class interests and social milieu have fostered this sectional prejudice in him, would have an ideological belief. This belief

³¹ Ibid., p. 273.
would not survive his acquiring knowledge of the reasons for his maintaining his belief. 32

Relying on the above definition permits one to distinguish in the moral realm—at least in principle—between ideological and non-ideological beliefs. On this basis one could construct a two-pronged argument to support the objective validity of the judgment that socialism is morally preferable to capitalism (assuming, again, that there is agreement on the facts and that they are as Marx says). First, objections to this evaluation would be indicted as resting on ethical claims that are ideological and, therefore, illegitimate. . . . Second, the moral principles underlying the case for socialism would be demonstrated to pass the litmus test for ideology. Those who endorse the relevant principles would have to be shown as not doing so for reasons the knowledge of which would lead them to cease believing those principles. The proletarian can affirm the moral perspective of his class while understanding how and why these ideals have arisen at this point in history. 33

Whether or not we accept Shaw's argument will turn in large measure on our views of the scientific and epistemological status of psychoanalytic theory. Both Marxists and non-Marxists are often bitterly divided on precisely this issue. Such philosophers as Adolph Gruenbaum argue that psychoanalysis is a pseudo-science as opposed to a genuine science and point to facts such as that the remission rate for people with psychological problems is no better among those treated by psychoanalysis than among those who simply have someone to talk about their problems. But, as Elster emphasizes, the (presumably) more scientifically well-grounded claims of cognitive psychology might be well fitted to fill this theoretical role. 34

Among other Marxist-oriented thinkers who give psychoanalytic theory credence, members of the Institute of Social Research, or Frankfurt School, such as Max Horkheimer, Theodor Adorno, Erich Fromm, and Herbert Marcuse have—since the 1930s—suggested that a fusion of the Marxist and psychoanalytic traditions is necessary for the development of a truly adequate critical theory of society. Although they did not apply this to moral theory construction in particular, they did mean it to apply to ideology in general, of which moral theories and codes are part. 35

Among the intellectual descendants of the Frankfurt School, Jürgen Habermas has developed a sophisticated version of the fusion of these two traditions. This theory has interesting parallels with both the theory of wide reflective equilibrium as an attempt to rid our considered moral judgments of biased or "ideological" elements and with John Rawls' theory of the original position as a hypothetical choice situation designed to reach a rational consensus on moral principles among free and equal individuals. 36

According to Habermas, norms—including moral principles by which to govern social arrangements—are justified or valid if, and only if, they would attain a rational consensus of individuals as free and equal participants in a dialogue (or "discourse") under conditions constitutive of an "ideal speech situation." This last clause is designed to eliminate precisely those sorts of biased and illegitimate opinions or views that Daniels and Shaw are concerned to bar from entering the data base in the construction of moral theories.

Practical questions . . . are posed with a view to the acceptance or rejection of norms, especially norms for action, the claims to validity of which we can support or oppose with reasons. Theories which in their structure can serve the clarification


33 For a concise history of the Frankfurt School's attempt at such a fusion, see Martin Jay The Dialectical Imagination, Little, Brown, and Co., Boston, 1973, especially chapter 2 ("The Integration of Psychoanalysis").

tion of practical questions are designed to enter into communicative action. Interpretations which can be gained within the framework of such theories cannot, of course, be directly effective for the orientation of action; rather, they find their legitimate value within the therapeutic context of the reflexive formation of volition. Therefore they can only be translated into processes of enlightenment which are rich in political consequences, when the institutional preconditions for practical discourse among the general public are fulfilled. As long as this is not the case, the restrictive compulsions, that is, the inhibitions to communication . . . themselves become a problem to be clarified theoretically.\textsuperscript{37}

Although Habermas takes a rational consensus to be the criterion of a “generalizable interest” and thus a valid or legitimate norm, he is concerned to distinguish a “true” from a “false” consensus. A false consensus is based on “nongeneralizable interests” resulting from the inauthenticity, deception, or self-deception of individuals. This is why Habermas is concerned to develop a theory of “communicative competence”—including a conception of the “ideal speech situation”—as well as a theory of “systematically distorted communication” designed to explain the prevalence of ideologies based on nongeneralizable interests that result in a false consensus. This is also the point at which the psychoanalytic tradition comes into play in Habermas’ theory. As Julius Sensat puts it in his work Habermas and Marxism:

Institutionally secured deviations from the ideal speech situation produce systematic distortions in communication. For example, repressive socialization processes hinder self-expression and produce neurotic disturbances.\textsuperscript{38}

Neurotic behavior patterns have objective power over their victims despite the fact that they are produced by the victims themselves. The neurotic individual does not understand his own actions, which spring from motives that, though they are his motives, have been banished from his consciousness. . . . The true meaning of his pathological behavior patterns differs from their apparent meaning, which is expressed in rationalizations. Rationalizations serve to conceal from him the true cause of his behavior; at the same time, they themselves result

\textsuperscript{37} Habermas, Theory and Practice, pp. 3-4.

\textsuperscript{38} Sensat, Habermas and Marxism, p. 28.

from and express the irrational state of affairs which is his illness. Not truly rational, rationalizations can be criticized and seen through. Psychoanalysis helps the patient to accomplish this task, by means of which he regains his rational powers and becomes the conscious author of his own actions.

Ideologies are rationalizations writ large. Instead of individual behavior patterns they serve to legitimate institutions which are not discursively justifiable. Such institutions, like neurotic behavior patterns, have objective power over individuals, in spite of the fact that they are produced by the reciprocal behavioral expectations of these individuals in their interactions with each other. These institutions express conditions which are social; they express the society’s answers to practical questions and are thus in principle amenable to practical deliberation and control. That is to say, it is possible in principle for social institutions to be evaluated in discourse. Such an evaluative procedure would allow only generalizable interests—those interests that all persons, as fully competent subjects, would regard as legitimate—to be secured institutionally. It thereby would result in formation of a rational general will.\textsuperscript{39}

At this point we find ourselves back to the idea of (unanimous) intersubjective agreement in hypothetical choice situations. Although Habermas wants ultimately to apply his criterion of consensus validation to factual as well as evaluative claims, if we limit our attention to the validation of moral claims and principles, this theory can be considered as a sort of synthesis of Rawls’ strategy of the original position and Daniels’ and Shaw’s proposed constraints on what can be taken as a considered moral judgment or a legitimate interest. The similarities between Rawls’ characterization of the original position and Habermas’ characterization of the ideal speech situation are especially significant.

Whereas Rawls’ original position is, \textit{ex hypothesi}, populated by rational, free, nonvenous individuals in a situation of initial equality, Habermas’ ideal speech situation is populated by rational, free and (presumably) nonvenous individuals in a situation of equality.

The \textit{ideal speech situation} . . . is characterized formally by the symmetrical distribution of chances to assume dialogue roles,

\textsuperscript{39} Ibid., pp. 28-29.
i.e., to select and employ speech acts. In particular, (1) all potential participants in discourse must have the same chance to initiate discourses and to perpetuate them through asking and answering questions, making and replying to objections, giving arguments and justifications, etc. This requirement insures that all opinions and norms are potentially subject to discursive examination. Furthermore, (2) all participants in interaction must have the same chance to express their feelings, intentions, attitudes, etc. This requirement is meant to insure the authenticity of the participants, i.e., the transparency of their inner natures to themselves and to each other. Finally, (3) all participants in interaction must have the same chance to give orders, to permit, to forbid, to give and receive promises, etc.; in short, there must be a reciprocity in behavior expectations which excludes all privileges in the sense of one-sidedly binding norms.\textsuperscript{40}

Furthermore, although Rawls does not bring psychoanalytic theory to bear on this matter, it is clear that he is also concerned that the moral judgments of parties in the original position be autonomous and that the consensus they reach be a "true" or "objective" one. This comes out in certain passages in \textit{A Theory of Justice} not often commented on. Rawls first invites us to imagine . . . that someone experiences the promptings of his moral sense as inexplicable inhibitions which for the moment he is unable to justify. Why should he not regard them as simply neurotic compulsions? If it should turn out that these scruples are indeed largely shaped and accounted for by the contingencies of early childhood, perhaps by the course of our family history and class situation, and that there is nothing to add on their behalf, then there is surely no reason why they should govern our lives.\textsuperscript{41}

This is why the individual in the original position would demand that "the psychological processes by which his moral sense has been acquired conform to principles that he himself would choose under conditions that he would concede are fair and undistorted by fortune and happenstance."\textsuperscript{42} Such individuals would also demand that a "person's sense of justice is not a compulsive psychological mechanism cleverly installed by those in authority in order to insure his unswerving compliance with rules designed to advance their interests."\textsuperscript{43} Furthermore, according to Rawls, "It follows that in accepting these principles on this basis we are not influenced primarily by tradition and authority, or the opinions of others."\textsuperscript{44}

The parallel here between Habermas and Rawls is evident. They are both very much concerned with the same sorts of problems in achieving a "genuine," "true," or "enlightened" consensus among individuals on intersubjectively binding norms by which to judge and regulate social arrangements and practices. One important difference, of course, is that while Habermas seeks to incorporate large parts of psychoanalytic theory into his critical theory of society, Rawls does no more than allude to the types of difficulties that psychoanalytic theory—or theories in cognitive psychology—might be helpful in solving. Perhaps the most important difference, though, is that whereas Rawls' proposed consensus is purely hypothetical, the consensus proposed by Habermas is one he believes could and would actually come about if we had social institutions conducive to promoting the type of "discourse" between individuals necessary to achieve it—social institutions that were, for example, transparent to individuals rather than opaque and that fostered autonomous personalities rather than the reverse.

This distinction between a hypothetical and an actual consensus brings up the point that in judging theories of moral justification we must determine how they fare in assuring an enlightened intersubjective consensus at both the theoretical and practical levels. This distinction is perhaps particularly important to Marxists since, even if they admit the possibility of such a (unanimous) consensus on a theoretical level, they have no illusions of reaching such a consensus on the practical level where class interests and perspectives are operative.

This brings us to a recent change in Rawls' theory or method of justification from which I explicitly wish to distance myself. Apparently in response to his communitarian critics—primarily Alasdair MacIntyre, Charles Taylor, and Michael Sandel—Rawls now eschews his former analysis on which such principles are justified if (and only if) they would be unanimously agreed to in the origi-
nal position in favor of an analysis on which they are justified (i.e., worthy of being accepted) if (and presumably only if) they are able to capture the implicit norms of all segments of a democratic, liberal society and, thus, constitute what he calls an "overlapping consensus." 

Rawls' purpose in proposing this new theory of justification seems to be to avoid the charge that his strategy of the original position is infused with essentially contestable value judgments— in particular, that it begs the question of individualism versus communitarianism in favor of individualism—and, thus, to "provide a shared public basis of the justification of political and social institutions," which will "ensure stability from one generation to another." Rawls does not propose, however, that this method of justification is appropriate to all societies; on the contrary, he claims that it is only appropriate to societies having democratic constitutional institutions and traditions. In particular, such a society must have a tradition based on the "basic intuitive ideas" that persons are to be conceived as free and equal moral beings and that people ought to participate in a "fair system of cooperation" in order to realize the numerous opportunities for gain that are possible within such a system. He further assumes that the political traditions of this sort of society contain the values of toleration, free and orderly public discussion, and disdain for the oppressive use of state power. Given these assumptions it is Rawls' hypothesis that an actual overlapping consensus can be achieved on principles of social justice within currently existing democratic liberal societies; in particular, he believes that such a consensus can be achieved on his substantive principles of social justice.

Here I must part company with Rawls and insist that we utilize only his strategy of the original position as originally conceived. It seems to me that this new method of justification is susceptible to insurmountable objections. In addition, it weakens the arguments Rawls formerly had against a number of opponents and realizes no appreciable off-setting gain. (Later in this chapter I shall note how Rawls' new strategy even seems to undercut his case against such right-libertarians as Nozick, and in chapter 9 I shall explain how it also undercuts a possible response on his part to one of Richard Miller's criticisms.)

One objection to Rawls' new method is that it fails at the task it is designed to accomplish, i.e., the task of eliminating contestable value judgments in the justification of principles of social justice. In stipulating that it applies only to democratic constitutional liberal societies and that all members or at least all major segments of these societies accept the liberal values of toleration, respect for free and orderly discussion, and disdain for the oppressive use of state power, he seems to be merely begging the question at another level. (When he goes on to claim that such a consensus can be reached within contemporary Western constitutional democracies he enters the realm of the empirical and is, thus, susceptible to empirical refutation. More on this shortly.)

Although at first glance this new method of justifying principles of social justice by achieving an actual overlapping consensus may seem capable of placating Rawls' communitarian critics, not even this much is clear. After all, wouldn't MacIntyre, Taylor, and Sandel object to this theory as well since: (1) it is still based on the notion of rights (which they tend to reject on grounds that it incorporates an individualistic bias), (2) it still accepts justice as the first virtue of social institutions (while they think of it as merely a remedial virtue that is needed only as long as we have not achieved genuine community), and (3) it presupposes a pluralistic society and sees the job of the state as merely adjudicating conflicting interests (whereas they hold that the good life cannot be achieved unless pluralism is eliminated and replaced by a genuine community in which there is a consensus on the nature of the good and in which one of the main functions of the state is to promote the good, partially by encouraging universal participation in the process of governing, i.e., by encouraging civic republicanism)? If so, this fact, in and of itself, would seem to indicate that Rawls' hope of achieving an overlapping consensus within a democratic liberal society without begging any substantive moral questions is in vain.

Another difficulty with Rawls' overlapping consensus theory would seem to be that persons who have democratic sentiments but who happen to live in an undemocratic, illiberal (but yet pluralistic) society are left in a theoretical lurch, so to speak. Since they cannot justify principles of social justice—say Rawls' principles—by uncovering the right sort of implicit overlapping consensus, how are they to justify such a theory? Certainly we don't want

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8 See Rawls, "Justice as Fairness: Political not Metaphysical" and "The Idea of an Overlapping Consensus." For a critical response to these articles, see Hampton, "Should Political Philosophy Be Done without Metaphysics?" For a more sympathetic response, see Doppelt, "Is Rawls' Kantian Liberalism Coherent and Defensible?"

to say that no theory of justice can be justified in such a society. This would leave people no cogent grounds on which to claim that undemocratic or illiberal practices or institutions in such societies are unjust and ought to be altered. On the other hand, if Rawls were to grant such persons the privilege of justifying a theory of justice by means of the strategy of the original position—which would seem his only other alternative—then why is this not a valid method of justification for everyone regardless of the sort of society in which they happen to live?

Perhaps one reason Rawls is hesitant to grant this is that he has taken to heart the communitarian criticism that his theory of justice may not be appropriate to all societies in all historical periods. But this is something that Rawls (or a Rawlsian) can perfectly well admit within the context of the strategy of the original position. Since, by hypothesis, the participants in the original position have all general knowledge that is relevant for making decisions on basic principles by which to govern social arrangements, they would know if there are (or might be) some societies in which—due to the empirical facts—liberal principles of justice (or rights) are not the best to accept. Individuals within close-knit band and tribal level societies, for example, might be so community oriented that they would have no use for principles protecting individual liberal freedoms and may even be opposed to such principles if they had reason to believe that their acceptance or promulgation would lead to a destruction of the genuine community they value so highly, along with the satisfaction and fulfillment they may gain from having common ends and a shared understanding of the human condition. (Marx’s utopian vision of full-fledged communism may fall into the same category, but since such a society is not historically possible—at least as a mass society—we needn’t concern ourselves with it.)

There are, however, two points to be made here. First, even if such community-oriented individuals would want to reject the “individualistic” liberal freedoms (of free speech, private property, etc.), they almost certainly would still wish to ensure that they are not tortured, murdered, or unnecessarily starved to death or made to suffer great hardships. Whether or not they would want to phrase these assurances in terms of rights or merely affirm them in terms of such natural duties as the duty not to harm and the duty of mutual aid, from the perspective of the original position they would undoubtedly insist upon them. (That actual individuals in band or tribal level societies may not even have the concept of rights or duties is, of course, irrelevant; the point is that they would want to protect themselves against such contingencies whether or not they have these concepts and that this can best be articulated within the original position by the use of such concepts.) So even with respect to such societies as these there is still valuable work to be done within the original position.

The second (related) point is that a Rawlsian can “relativize” her theory to accord with such essential psychological and sociological facts and, thus, admit that Rawls’ principles of social justice (on both his general and special conceptions) are meant to be applicable to only mass, pluralistic societies that instantiate Hume’s conditions of justice. But then, of course, the Rawlsian would be free to point out that as a matter of empirical fact this is basically the only type of society that exists in modern times and, thus, that Rawls’ substantive principles of justice should be taken to apply at least to all presently existing societies as well as all other mass, pluralistic societies that may come into existence. As compared to Rawls’ move to demanding an actual overlapping consensus within a democratic liberal society, this move has the advantages that it applies to all mass, pluralistic societies rather than only to democratic liberal ones and that it is not refuted by the mere empirical fact that not all actually existing persons or groups of persons within such societies will agree on these principles of justice or even on the underlying liberal principle of toleration. Thus, it seems to assuage at least one of the concerns of Rawls’ communitarian critics without running into all of the difficulties of Rawls’ overlapping consensus method of justification.

This brings us to the most obvious—and, I believe, most devastating—objection to Rawls’ new method of justification. It is precisely that even if such an overlapping consensus could be achieved under the conditions he outlines, there is not the slightest reason to believe that there is any presently existing society (or will be any society for the foreseeable future) in which all of these conditions are met; i.e., in which all members of society—or even all major groups within society—accept all of the values that Rawls claims are part of “our” democratic political culture. In the United States, for example, there are not only isolated individuals but whole segments of society that repudiate one or more of these values. (Here one need only think of the religious fundamentalists in the United States, some of whom advocate that homosexuals ought to suffer the biblical punishment of being stoned to death.) Notice that while Rawls’ strategy of the original position
is not susceptible to the objection that not all actual people will agree on a set of principles—the answer is "Of course not! But what I am claiming is that they would agree if they met the conditions of my hypothetical choice situation and this situation is the epitome of what is fair"—his new overlapping consensus method is fatally susceptible to this objection. As Jean Hampton puts it, "Not only is there no consensus on Rawls's conception of justice in our society, but more disturbingly, there is no consensus on the idea that all human beings deserve equal respect."  

But why doesn't Rawls perceive this fact as a major obstacle to his overlapping consensus method, if so many others do? I would hazard the guess that this is an instance in which Rawls has let his (sometime) neoclassical inclination to conceive society as almost wholly cooperative—rather than as marked by conflict and relations of dominance and exploitation—run amok. Although a Marxist may well agree with Rawls that a society allowing for such a consensus is a noble ideal and even that such a society may be historically possible even in the form of a mass, pluralistic society (although even a democratic, self-managing socialist society might contain religious fundamentalists), she or he will surely not agree that there are now any capitalist societies or, for that matter, any post-capitalist societies that meet these conditions. If the Marxist analysis that even contemporary liberal welfare-state capitalist societies are class divided and shot through and through with serious conflict stemming from relations of dominance and exploitation (class and otherwise) is even close to the mark, then Rawls' implicit assumption that all major groups within such societies can actually reach a consensus (on his theory of justice or any other) becomes almost laughable. And one certainly need not be a Marxist to accept the view that there is enough serious conflict in contemporary societies to make such a consensus highly fanciful. 

In short, if reaching an actual consensus is a necessary condition for a theory of justice being justified (in a democratic liberal or any other type of society), then it seems exceedingly likely that neither Rawls' theory nor any other theory will ever be justified within a modern mass pluralistic society. This seems a steep price to pay for getting rid of contestable normative assumptions (although, as previously argued, Rawls does not succeed even in doing that). Even though a unanimous consensus in the real world is not guar-

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Hampton, "Should Political Philosophy Be Done without Metaphysics?" (forthcoming).
Marxism and Morality

principles under these or any other conditions is simply irrelevant to the issue of whether or not such principles are justified and thus of no import in deciding whether or not such principles are objective. Although I will not attempt to sort out all of these issues, I will presently offer some considerations that, I think, ought to make us uneasy about assuming that such a consensus would be reached even among individuals who meet all of the conditions stipulated in Rawls’ and Habermas’ hypothetical choice situations.

But before we take up the question of intersubjective agreement at the theoretical level, let us first examine the possibility of achieving such intersubjective agreement at the practical level—the level at which political activity is determined in the real world. It seems clear that even if such hypothetical choice strategies may be ultimately decisive between opposing moral theories at the theoretical level, at the practical level they are bound to be much less decisive. There are individuals who are not even prepared to accept the rational, humanistic framework in which such debates can profitably be carried on. The fascist’s irrational, intolerant commitment to “racial purity” or the “destiny of the nation” or the “fuhrer” may result from psychologically neurotic or socially ideological causes that they would be able to see through, and thus be “freed” of, if they were rational and non-dogmatic enough to engage in what Habermas calls therapeutic discourse. But many in the real world are simply not willing or able to do this. It is simply impractical for a Marxist to expect to be able to rationally persuade a committed fascist that a democratic form of socialism is morally justified even on the assumption that Marxist empirical theory is basically true. As Andrew Collier notes:

There have existed, and do exist, axiologies in which human powerlessness, submission, resignation, acceptance of what comes, renunciation of satisfaction, are made into values. These axiologies generally involve the ideal of submission to a superior will; to divine providence, or to a human führer, or in some versions, to some supra-natural entity, supposedly endowed with an irreducible will of its own, such as nation or race. The consistent adherent of one of these axiologies will be untouched by socialist arguments that class oppression and the subordination of human wills to market forces could be abolished; here we really do reach a logical breakdown in the possibility of rational argument.48


Marxism and Moral Relativism

But even if we limit ourselves to those within the contemporary secular (or at least nontheocratic) and humanistic framework of practical reasoning about social arrangements (i.e., to modern liberals, libertarians, social-democrats, socialists, and most conservatives), it still seems problematic that we would reach unanimous intersubjective agreement on moral principles or on the best set of social arrangements. First, both the right-libertarian and the conservative are bound to have a falling out with modern liberals, social-democrats, and socialists even if it is assumed by all parties that Marxist empirical theory is basically correct. The right-libertarian’s view that the right to own and control both personal and productive property is a basic liberty that is indefeasible before any and all other sorts of moral considerations, and the conservative’s view that liberty can be constrained on grounds of conserving traditional values, will presumably both be anathema to humanist liberals and socialists. And even if it can be plausibly argued that neither of these views would be reached by parties in Rawls’ original position or Habermas’ ideal speech situation, it may be impossible as a practical matter to convince the right-libertarian or the conservative to give up these views.

It may seem as though I am being prejudicial here in setting up these oppositions since, it may well be pointed out, (1) liberals will differ from both social-democrats and revolutionary socialists on such issues as the right to productive property, while (2) liberals and social-democrats will normally differ from Marxists on the issue of the justifiability of socialist revolution. But I am here taking the liberty of assuming that these differences are primarily (if not exclusively) a matter of disagreements in empirical theory and belief. To see that this assumption is not totally implausible with reference to the first issue, one need only remember that the two greatest moral and social philosophers of the liberal tradition in the last two centuries—J. S. Mill and John Rawls—both readily admit that bourgeois property rights are neither morally fundamental nor indefeasible and that, given certain empirical assumptions in the realm of economics and political sociology, socialism (i.e., a democratic form of socialism) is morally preferable to capitalism.49 At this point, the liberal will, in all probability, fall out with both the social-democrat and the revolutionary socialist as to whether a democratic form of socialism is a genuine historical possibility; but

both this proposition and the assessment of the degree of confidence we are entitled to have in this and similar historical predictions are matters of empirical dispute rather than differences in moral evaluation.

The further claim that the differences between the liberal (and social-democrat) and the revolutionary socialist on the justifiability of socialist revolution are primarily differences in empirical theory and belief seems somewhat more problematic. But if a liberal or a social-democrat came to accept the Marxist’s empirical views that (1) capitalism is the cause of the world’s major social problems and the only way to eliminate war, oppression, human deprivation, extreme inequality, and the violation of human rights in general is to eliminate capitalism; (2) a post-capitalist society—one established on a worldwide scale—will not be an oppressive or totalitarian form of society; and (3) an evolutionary path to socialism is not feasible, it seems reasonable to assume that liberals or social-democrats would agree that socialist revolution—even violent socialist revolution—is morally justified.

But even if we assume that the differences between liberals, social-democrats, and revolutionary socialists are entirely factual, achieving a consensus about normative political positions at a practical level is still extremely problematic precisely because of the persistence of these differences in empirical beliefs. Achieving agreement on the truth of Marxist empirical theory (or even upon the reality of the class struggle) is, in fact, perhaps even more problematic than achieving agreement on basic moral principles. Agreement in the social sciences is extremely difficult to command.

Moreover, if Marx’s theory of ideology is basically correct, we can expect the bourgeoisie (and privileged groups in general) to reject Marxist empirical theory even if it is true. This rejection of Marxist empirical theory and political program can range from the right-libertarian’s claim that laissez-faire capitalism is the solution to all of modern society’s economic woes to the welfare-state liberal’s more benign but no less ideological claim that the state is basically a neutral arbiter between classes and, consequently, that it is not necessary to bring class struggle into the picture when designing strategies for social change. As emphasized in chapter 6, however, this must not be taken as a prophylactic against any and all opposing views, as is sometimes done by dogmatic Marxists. One must always leave open the possibility that it is Marxist empirical theory that is false. To make such a use of the Marxist theory of ideology results in Marxist theory being self-sealing, and thus not genuinely scientific.

But if we assume that Marxist empirical theory or at least the Marxist analysis of capitalism is basically correct, it will be included in the background information to which the individuals in Frankena’s and Rawls’ hypothetical choice situations have access and in the empirical propositions that individuals in Habermas’ ideal speech situation come to accept as true. Given these empirical assumptions, the Marxist’s normative political positions will be vindicated on almost all well-known moral theories to which humanists liberals, social-democrats, and revolutionary socialists find themselves committed. The utilitarian, the Kantian, the Rawlsian liberal, the self-realization theorist, the proponent of perfectionist ethics, etc., will all choose socialism (i.e., democratic, self-managing socialism) over any form of capitalism and over any other society possible in this historical epoch. As Collier puts it, “There is an extremely wide spectrum of axiological standpoints which when combined with a Marxist analysis of the workings of capitalism, would compel their adherents to adopt socialist politics.”

But the theoretical question is: utilizing the method of wide reflective equilibrium, will the incorporation of Marxist empirical theory into the “knowledge” of individuals in these hypothetical choice situations necessarily result in unanimous intersubjective agreement on the Marxist’s basic normative political positions? Even assuming that we can rule out the views of fascists on grounds that such views will not be held by rational, nonenvious persons who have any respect for human autonomy, it still seems doubtful that such a unanimous consensus will be reached.

Take the case of a right-libertarian having a particularly intractable nature and you may come up with an individual who—even meeting all the conditions Rawls, Frankena, and others put forward and even accepting Marxist empirical theory as basically correct—may very well still hold that an individual’s right to own and control both personal and productive property is a basic component of human freedom or liberty. Since, on this view, either liberty cannot be limited at all or can be limited only on the basis of a greater gain in liberty (narrowly interpreted), this right will be indefeasible before any and all other kinds of moral considerations, e.g., considerations of utility or social justice.

If we were to argue that this belief is an ideological rationaliza-

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tion (in the sense explicated by Habermas and Shaw) on the part of the bourgeoisie and other privileged classes or groups in capitalist society, some right-libertarians might justifiably respond that this may be true of a great many individuals but not of them because they know the historical and even personal psychological origin of this belief or commitment and yet choose to stand by it (perhaps as a matter of "existential commitment"). They might further point out that—on the explication of ideology given in this work at least—what is or is not ideological is relative to the ultimate normative ends to which one is committed and, therefore, to label their views "ideological" is to beg the question in favor of the Marxist's or humanist's ultimate normative commitments and thus cannot be decisive. They might even point out to us—with considerable justification—that the cause or origin of a normative principle or belief has its own validity and that to reject a normative principle on the basis of its historical or psychological genesis is to commit a gross form of the "genetic fallacy."

Furthermore, rather than being persuaded that their moral views are the result of selfish class interests, right-libertarians are more likely to respond, rightly or wrongly, that it is the Marxist's moral views that are to be indicted on the grounds that they are the result of envy. (This would, however, have to be a much more detailed story to be plausible since many Marxists have come from wealthy and/or well-placed families and social backgrounds.) Furthermore, while bringing psychoanalytic theory into the hypothetical choice situation—as Habermas, Shaw, and others recommend—may make the method more powerful at the theoretical level, it makes unanimous intersubjective agreement, if anything, more problematic since there are many writers (both Marxist and non-Marxist) who will question the validity of psychoanalytic theory or the specific applications made of it. (I presume that even the claims of cognitive psychology cited by Elster in this context are not beyond dispute.)

Descending from the methodological or metaethical level to the level of substantiative moral argument, we might attempt to propose that a genuine respect for human freedom or liberty requires a recognition of freedom to do or not do certain sorts of things, which includes the freedom to earn an honest living and thus be able to feed oneself and not starve. But the right-libertarian would probably respond that respect for the liberty of persons entails only that people be free from force, theft, and fraud to do (or not do) as they like. We might argue that respect for persons entails concern for

their well-being as well as for their freedom, but right-libertarians such as Nozick might argue that respect for persons means respecting the boundary lines of their "territories" as persons and that nothing more is morality required, though being charitable to the more disadvantaged may be morally admirable. Furthermore, they might claim, again with considerable justification, that since the concept or principle of respect for persons is—like the concept of ideology—essentially contestable, we will not be able to solve our disagreements on normative principles by appealing to it.

If we were to invoke Rawls' strategy at this point and claim that parties in the original position would not agree to such an unstrained right to private property, right-libertarians still have a number of plausible retorts. First, they may grant the legitimacy of the strategy of the original position but disagree with Rawls' interpretation that the parties would not agree to such a principle—presumably on the grounds that such a right must be placed on the list of basic liberties that people would give priority to protecting. (Rawls, of course, counts as a basic liberty only the right to own personal property, along with the traditional "civil liberties"

9 Notice, however, that on Rawls' more recent overlapping consensus view of the justification of principles of social justice, although this appeal to what would be agree to in the original position has heuristic value, it no longer serves to justify such principles. Therefore, even if it could be conclusively shown that the parties to the original position would not recognize an unrestricted right to private property (but only a restricted right to own personal as opposed to productive property), this does not show that the libertarian's principle is not justified and the more limited principle is. Thus, Rawls' case against Nozick and other right-libertarians is weakened. Moreover, the fact that right-libertarians such as Nozick presumably must be counted among those claiming allegiance to a democratic constitutional society (even though they do not recognize political democracy to have anything but instrumental value), shows—contrary to Rawls' assumption—that the overlapping consensus on basic principles of social justice is simply not forthcoming in such societies. It is clear that right-libertarians such as Nozick have an unshakeable commitment to the right to own and control productive property as basic and incontrovertible, while Rawls and most other defenders of democratic constitutional society (even though they do not recognize political democracy to have anything but instrumental value), show—contrary to Rawls' assumption—that the overlapping consensus on basic principles of social justice is simply not forthcoming in such societies.
such as freedom of expression, religion, and conscience and such traditional political rights as freedom of association, the right to vote, the right to run for and hold political office, etc.) This move would still leave quite a lot of common ground on which to argue since we could attempt to develop the criteria a liberty must meet in order to be considered a basic liberty by parties in the original position and then ask if the particular right in question meets these criteria.

Second, however, right-libertarians might maintain that whether or not the parties in the original position would agree to such an unfettered right to private property—or to any other right or principle—has no moral import. This move would seemingly leave very little common ground on which to argue. But there is one important rejoinder that proponents of hypothetical choice strategies have available, namely, that whatever set of principles or rules is agreed upon in such hypothetical situations, it is, ipso facto, a fair set of principles or rules and that to abide by such a procedure is to be fair, and to refuse to do so is the paradigm of what it is to be unfair. (This is precisely why Rawls calls his theory “justice as fairness.”) The right-libertarian—or anyone else—can still, of course, refuse to recognize the moral import of rules or principles arrived at in such a manner but only at what would seem to be a terrible price: admitting they do not feel themselves obligated to be fair or to be bound in any way by considerations of fairness.

It is possible, of course, that the persons in question might dispute this as a criterion of fairness, but it is difficult to imagine how. It is even possible that they may simply bite the bullet at this point and claim that fundamental liberties—such as unrestrained property rights—take precedence over considerations of fairness. In this case, appealing back to what would be agreed to in the original position or other hypothetical choice situations would carry no weight with our imaginary interlocutors since the force of such appeals depends, in the last analysis, on a commitment to fairness. Thus any attempt to get someone to agree that we ought to be constrained by considerations of fairness because we all would agree to do so in such hypothetical choice situations is question-begging and circular. (This is why Rawls does not attempt to justify the principle of fairness: it, together with his commitment to the value of autonomy, is presupposed by his theory rather than justified by it.)

It seems to me that such considerations as these ought to make us a bit uncomfortable in assuming even at the theoretical level of hypothetical choice situations that all individuals who meet the conditions stipulated by Frankena, Rawls, and Habermas will necessarily agree on the correct set of moral principles. Still, even if we cannot claim that such principles are objective in the sense that they command unanimous intersubjective agreement even within such carefully crafted hypothetical choice situations, it would seem that if we each presented our case to all other individuals under these conditions, it is almost certain that the vast majority of thoughtful, humane individuals would agree with us and not with the right-libertarian. It may also be the case that most people in the real world would agree that the right-libertarian’s views simply do not show the proper respect for persons and will wonder how right-libertarians could hold the positions they do.

In the final analysis, perhaps this is really all that we can expect in the way of moral “objectivity.” But—it may well be asked—can we claim that our moral principles are objective under these circumstances and that those of the right-libertarian are not? If objectivity, as both Hare and Rawls seem to claim, is simply taking all relevant things into consideration and weighing them as impartially as possible, then we would have every right, under these circumstances, to claim such objectivity. On the other hand, right-libertarians—if they really had taken all that is relevant into consideration—could make precisely the same claim. This is perhaps a good reason for not speaking of “objectivity” in evaluative contexts even if we ought to maintain unanimous intersubjective agreement as a regulative ideal.52

Finally, it should be noted here that the Marxist is perhaps in a better position at this point than those who demand that moral principles be “completely objective,” in the sense of being indisputable, or who see a nearly unanimous consensus on moral issues as a necessary condition for social change. While individuals entertaining these beliefs may be subject to despair, the Marxist will see here only the inevitable truth of class-divided societies, societies that will be changed by the conscious political action of the vast majority of the downtrodden and oppressed, together with their allies within the middle class, the radical intelligentsia, and even in the extreme case—within the bourgeoisie itself, all of whom will be set in motion partly by self-interest and partly by the moral outrage to which the capitalist system itself gives rise.

52 For recent work on moral relativism and moral objectivity, see David B. Wong, Moral Relativity, University of California Press, Berkeley, 1984; Bernard Williams, Ethics and the Limits of Philosophy, and Mike, Immorality.