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THE HISTORIAN AS MORAL JUDGE

*by
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We can all agree that the historian has the professional duty to accurately report past events. The word "accurately" presents difficulties, of course: the narrower the focus of the past events we report on, the more likely the agreement, whereas the broader the focus and the more complex the events, the greater the chance for honest disagreement. Thus, the causes of the Boston Tea Party are likely to occasion fewer disagreements than the causes of the American Revolution. But the basic principle is clear (although its application is often difficult): an historical statement is true insofar as it is substantiated by accurate observations (the factual evidence).

Can this basic principle, however, be applied to the making of moral judgments about past events? Should the historian be content to judge the actions of historical personages according to their own moral standards, or should he also judge their moral standards as well? For instance, it is one thing to judge Napoleon's battle tactics at Waterloo as being right or wrong in terms of Napoleon's own ethical goal, but should the historian also sit in judgment on Napoleon's ethical goals? Historians have frequently been called upon to do this, but many have been reluctant because they feel moral standards are not provable by accurate observations or factual evidence. These historians feel that moral standards are a product of one's own particular culture, or else a matter of mere subjective opinion only. They feel that it is rank ethnocentrism to say that one of these standards is true and all the others are false,

and besides they don't think that factual evidence can be used to substantiate any moral standard: how, they ask, can you make the jump from the world of "what is" to the world of "what ought to be"?

It is not enough to argue against this moral scepticism that it has a corrosive effect upon society. Perhaps so. Maintaining that no moral standard is better than the others would seem to encourage apathy, or the view that nothing is morally worth fighting for. Or on the other hand, it could also encourage violence by doing away with the moral condemnation which could restrain it; after all, if my actions are morally right because I think they are, then why shouldn't I do whatever I please? It may be that moral scepticism has helped breed the apathy and violence that plagues our own time, but even if the truth be unpleasant, we should seek to know it anyway.

But is it true? Should the historian adopt the attitudes of moral relativism or moral subjectivism? Should he judge past actions only in terms of the actor's own moral system and refrain from judging that moral system? I will answer no and will attempt to present factual evidence for the truth of a particular moral standard, namely: all individuals have equal rights to life, liberty and property. If others have equal rights, then I am morally obligated to respect those rights. As I present my case, please look carefully for unsubstantiated statements, factual errors, ambiguities or contradictions. After all, the whole point of my effort is to prove the equal rights doctrine, using the ordinary historical standards of proof, and not merely to present one more emotional exhortation for it.

I ask you to consider the following syllogism:

Major Premise: We should treat reality as it is accurately observed to be. If we don't do this, we lose contact with reality, become completely ineffectual, and withdraw into the mire of insanity.

For instance, if a rosebush has thorns on it, we should treat it as having thorns, and if a road has cars on it, we should treat it as such. These are simple realities and any observer who doesn't treat them as they are needs a mental examination, or perhaps his sense organs are faulty.

In short, we should base our actions on the truth. To the extent that we do, we achieve a successful life. To do otherwise has negative survival value: in fact, consistently to do otherwise would mean our early death. So long as we constantly choose life over death, we should continue to treat reality as it is accurately observed to be. This is the very essence of rationality.

You find nothing objectionable in this common sense prescription? Well, be careful, because we have just gone from the world of "what is" to the world of "should be." What we have here is an absolute moral standard for judging human behavior, a standard which is true in all times and climes, irrespective of cultural dictate or personal opinion! We can choose not to obey this standard, of course, just as we can choose to believe the world is flat; but in either case such a choice would be wrong.

But, it may be asked, isn't accurate observation of reality a matter of personal subjective opinion? No, I think not. The standards of accurate observation are quite objective: the observer must be in an appropriate place to make the observation, he must have normal sense organs, and he must be able to intellectually comprehend what he is observing. To be sure, rational men can still honestly disagree over what a particular reality is, especially when that reality is complex—that is, made up of many simple observable facts, such as the causes of the American Revolution, for instance. But again, the basic principle is clear (although its application is often difficult): we should treat those causes as they

are accurately observed to be. This treatment would involve describing them as accurately as possible, in making logical inferences about the American colonial character or the British imperial system, etc.

Now, what happens when we apply this basic standard of action to human relations? That brings us to the second step in our syllogism:

Minor Premise: It is reality that all individuals are equal as to having life, liberty and labor. Note that this statement doesn't say that all individuals have equal amounts of life, liberty and labor: that is manifestly false. We all differ as to health, ability and wealth. But certainly we all have life (let us not concern ourselves with dead individuals, who have no further need of an ethical system), and so we are all equal in this respect.

We all have liberty, too, insofar as that means the ability to prefer certain environmental influences to others, as well as the ability to act upon those preferences within the limits of our physical and mental capacities. Our capacities may be unequal and so may be our ability to act, but we are equal as to having these capacities. We may differ as to the amount of education we have or the racial discrimination we face, but we are equal in having a capacity to choose and act.

As for labor, which we can define as the ability to exert ourselves to satisfy our material desires, it too is something we all have, and therefore in this respect again we are all equal. It may be that each of us labors with a different amount of energy and intelligence, but this has nothing to do with the truth or falsity of the minor premise; obviously we are unequal in many respects, but the question is, are we equal in having the capacities of life, liberty and labor? If this is an incontrovertible fact, as it would seem to be, then the conclusion of this syllogism

would follow logically:

Conclusion: We should treat all individuals equally as to having life, liberty and labor.

This means that I shouldn't take another person's life - i.e., kill him - because this would be establishing a relationship of superiority, not equality, towards him. I would not be treating him equally as to having life - I would have it but he wouldn't and we would not then be equal and therefore I shouldn't kill him. It would be irrational to do so. Note also that if I let him kill me, I would be helping to establish a relationship of inferiority, not equality, with him and this would be no less irrational.

Suppose I killed myself while killing him. Would that be equal treatment? No, because I voluntarily killed myself but I killed him against his volition. Suppose he wished to be killed, what then? Well, mercy killing is moral; so even is suicide, though I find it distasteful.

If people shouldn't deny life to others, then all of us have a just or rational claim - i.e., a right - to life; a right which everyone has the duty to respect.

If I should treat all individuals equally as to having liberty, then my liberty should be no greater or lesser than anyone else's; hence, the popularly held view is true that one's liberty is limited only by the equal liberty of all others. And from this follows the statement that we all have an equal right - a just or rational claim - to liberty.

Now as to labor: if we should treat others equally as to having labor, then we shouldn't take their labor from them and thus we all have a right to labor. Translated into practical terms, this requires the right to the fruits of one's labor, for otherwise the right to one's labor would be meaningless. The fruits of one's labor we call property, and so we all have an equal right to property. Labor, then, is the sole justification for

private property.

private

There are other ways to justify property. When we labor on something, we transform our labor from ourselves into that thing; if we rightfully own our labor, then we rightfully own that thing. Or, if our labor is ours then we can rightfully sell it in the free market and exchange the proceeds for goods and services. Of course, the latter must be morally ownable; i.e., ~~the~~ the product of labor. For example, both a barber and a factory worker offer their services to the highest bidder, and they are entitled to the proceeds to the extent that the market is freely competitive.

Most people are willing to acknowledge a right to life, but then all the other rights flow from this basic one. If I have a right to my life, I own myself, the actions of my body are mine (right to liberty), including those actions called labor (right to labor, and therefore property).

If private property can only be justified by labor, then only those things that are the product of labor can rightfully be owned. Thus, air, sea and land are morally excluded from being made private property, but we can satisfy everyone's equal right to land by requiring that each landowner pay the annual rental value of his land to society in the form of a tax (in lieu of as many other taxes as possible).

Thus we can conclude that we have equal rights to life, liberty and property. These rights are by definition inalienable just as facts are by definition true (the phrases "true facts" and "inalienable rights" are both redundancies). Rights can be ignored just as facts can, but that doesn't mean they don't exist all the same. A man may be killed but he goes to his grave with his right to life forever intact.

There are some who say that all rights are derived from the state, but as Henry George once said, "they do not really think this; for they are as ready as any one else to say of any proposed

state action that it is right or it is wrong, in which they assert some standard of action higher than the state." (A Perplexed Philosopher, p. 211) The government does confer legal rights upon individuals, but we have been talking about moral rights here. Hopefully legal rights will conform to the higher moral law.

Has the case for equal rights been proven? Are there individuals who are not equal in having some life, liberty or labor? Should we not treat them as they are - i.e., equal in these respects? Where is the factual error or logical misstep?

There is still one tricky moral problem left for us to face. While it may be possible to ascertain the correct moral standard, it is much more difficult to ascertain the most efficient and least harmful course of action which will be most in accord with this moral standard. This is the age-old means-end problem.

Examples are in order. I am walking along a dark country road one night when I am suddenly attacked by a knife-wielding stranger seemingly intent on killing me. I have a right to resist him - even a pacifist would agree - and I should disarm him with as little injury to him as possible. But if I have no alternative but to kill him - if it's either him or me - then I should do so. With this the pacifist would disagree, but the right to life is no more unlimited than the rights to liberty or property. If I let him kill me, I would be establishing a relationship of inferiority, not equality, towards him and this would be irrational and a violation of the moral standard. My assailant has a right to life but in this particular situation, killing him in self-defense would not be murder. Killing him would protect more rights - mine and perhaps those of other potential victims - than it would destroy. We must also realize that if he were to succeed with his nefarious plan, a bad precedent

would be established which would have untoward moral effects.

Yes, there is such a thing as a just war. It is morally justified to wage a war if we could be sure that it would save more life, liberty and property than the war would destroy (which, of course, is not always easy to determine). Am I saying that the end can justify the means? Yes, for how else should we justify our means if not by our ends? And if the means-end approach is too disturbing, then look at it this way: we cannot avoid deciding which of at least two alternative courses of action will most promote human rights. Perhaps not fighting a war could result in a greater violation of human rights than the war itself. The decision not to act in the face of evil has moral consequences we cannot avoid considering.

Of course, we should be extremely wary of utilizing means that are intrinsically immoral. If the end is equal rights, a means which by itself leads away from equal rights is of questionable utility (but sometimes advisable, as when we kill a rampant madman).

It is no valid argument to maintain that because people seldom agree as to moral standards, because there is no universally held moral standard, we should not say that any one moral standard is true. People may disagree but the truth exists nevertheless. Oswald either had an accomplice or he did not, completely independent of our agreements or disagreements about the matter. Agreement is one thing, truth another. Even if all the people in the world subscribed to the equal rights doctrine, that wouldn't make it true. A true statement agrees with the facts, not with people.

Now it is time to consider what all this moral analysis means to the historian. In the first place, if you have not found the factual or logical error in this analysis, you must agree that the historian can be objective in passing moral judgment

on the people and events of the past because he can apply an objective moral standard to objective historical events. He may be biased or inadequately informed and thus led into error, but this could also happen to him in his capacity as reporter and interpreter of past events. The historian, therefore, can act professionally and objectively both as reporter and judge of the past.

When he acts as moral judge, he would do best, it would seem, to organize his presentation around the moral conclusions he is trying to reach. This means presenting the arguments both for and against his conclusion; nothing less would be satisfactory in a court of law, and history is a court of ethics. For example, in discussing whether Wilson acted correctly in involving the United States in World War I, the historian could first present the side of the arguments he doesn't agree with, refute them, and then present his own arguments. In doing this, he would be organizing the facts (always the facts) in such a way as to focus on the moral conclusions he wishes to substantiate. This is much preferable to the all-too-frequent presentation, often lengthy, of random facts, which could be labeled "Certain Events Concerning the Wilson Decision Which I Find Important," followed by a brief paragraph or two which passes moral judgment on Wilson and which purports to wring the full significance from the previous factual narrative. If the significance of a paper is in its moral judgment, then the paper's organization should focus on that judgment.

Our moral analysis leads us to a second conclusion: insofar as other moral standards disagree with the equal rights standard, they are wrong and should not be applied by historians. This sounds rather blunt, but is justified if factual and logical errors cannot be found in the analysis. It is worth stressing that the historian could well

cultivate humility in making moral judgments since the moral case is often not clearcut. But if he starts by using the wrong moral standard, then he is lost before he begins. For instance, historians justifying aristocratic privilege or communist totalitarianism would err in their moral judgments, and one should be as critical of these errors as of factual errors.

A third conclusion: The historian is best qualified to make moral judgments about the past. In applying the equalitarian standard to past events, it is often difficult to ascertain whether a particular action was the best means for improving society. Suppose that the historian wishes to determine whether Truman's decision to drop A-bombs on Hiroshima and Nagasaki was the best means for ultimately saving the most lives. To answer this question, the historian has to adduce the relevant facts: How many deaths could Truman expect would result from the bombings? What was the possibility of shortening the war, thus saving the lives of how many soldiers, both American and Japanese? How many bombs were available in the foreseeable future? How important was the traumatic effect Truman was looking for? What did Truman know about the martial determination of the Japanese? How totalitarian was the Japanese government? How imminent was the possibility of Russian invasion and occupation of Japan? And so on.

Facts are needed to answer all these questions in order ultimately to pass moral judgment on Truman's decision. Such a judgment is not best made by a philosopher per se but by the historian, with his wider knowledge of the facts and more intimate contact with the sources. The historian is in a better position than his reader to make judgments as to the proper means for effecting equal rights. If he neglects this responsibility because of some faulty relativistic moral analysis, then it will be performed by others less qualified than he.

But I can hear someone ask, "How can we legiti-

mately judge the people of the past by standards other than those current in their time? Was Jefferson immoral because he held slaves? Is William Penn to be forever condemned because he did not institute universal suffrage in Pennsylvania in 1681? If so, the past is peopled by devils."

Not quite. In judging individuals, we must take into account the obstacles they had to overcome. If Jefferson hesitated to free his slaves, it was because he feared for their welfare as freedmen in the South of his day. If he had urged universal and immediate abolition, he would have been morally right but impractical, and in the end he would have accomplished less good than he did. We can praise him for being morally ahead of his contemporaries. As for Penn, universal suffrage would have failed in 1681, although he would be more commendable if he had tried to popularize it more than he did. In judging an historical figure, the true question to ask is: how much did he advance society towards the goal of equal rights for all?

To conclude: an attempt has been made to prove equalitarianism, to show that the principle of equal rights rests on factual evidence just exactly as all true historical statements must. An example of this evidence is the statement "all individuals are equal in having life," a most obvious fact, but then we should not expect to substantiate moral standards with esoteric bits of information.

Historians should realize that they make a moral judgment whenever they adhere to moral relativism and say that all moral standards are equally valid. The trouble is that such a moral judgment cannot be substantiated by the relevant facts. Furthermore, this incorrect moral analysis can lead historians into at least two serious pitfalls: either they make moral judgments of past events using incorrect moral standards, or else they re-

fuse to make moral judgments at all, leaving such judgments to be made by those who know less about the past than they do.

APPENDIX

The foregoing essay quite naturally left some important questions unanswered. Some of them are asked and answered here:

Question: Isn't reporting the past worthwhile in its own right?

Answer: Absolutely. We need to know what happened in the past out of pure intellectual curiosity and also because such knowledge will help us to better understand the world we live in. But to ignore the moral dimension of history is to ignore some of the most interesting and significant information history can offer us.

Q: But can we report on past events in an interpretive way without coloring our report with our moral pre-conceptions?

A: Surely. The desire for liberty motivated the colonists to revolt against England in 1775 either more or less than their pursuit of profit, and our moral preconceptions have nothing to do with it. Admittedly, it can be difficult to put one's moral preconceptions aside when reporting the past, but it should be done and is often done. The truth of an historical interpretation depends on the factual substantiation, not on our moral views.

Q: Doesn't each generation have to re-interpret the past for itself?

A: I suppose so. Each generation has different interests concerning the past, and so historians ask different questions of the past. Also, new facts are discovered. But the standard of factual substantiation for both reportorial and moral interpretations remains the same down through the generations.

Q: Aren't individual historical facts substantiable while broad historical interpretations are not?

A: No, both are substantiable although it is

easier to substantiate individual facts. This is because broad interpretations include many facts. But interpretations can be considered true only to the extent that they are substantiated.

Q: English and French historians will probably differ on which side showed more heroism, virtue and skill at the Battle of Waterloo.

A: Yes, so?

Q: This shows that the historian is influenced by his cultural and national background.

A: Often. So?

Q: The historical truth can never be known.

A: I don't know about that. We can only know things according to the best evidence available. That is the standard we can try to approach. Note that you said, "The historian is influenced by his cultural and national background." Agreed - he isn't determined by his background. An influence we can resist, even if it is a powerful one, but a determinant we can't. Many Frenchmen are pro-English and vice versa, indicating that culture and nation influence us but do not determine us.

Q: Aren't you using the moral standards of culture to judge the standards of other cultures?

A: Yes and no. I hope that equal rights is the standard of my culture, but it could still be the one true one nevertheless. Hopefully, the facts prove that. In any case, there is no reason to discriminate against my culture merely because it is mine.

On the other hand, I would consider it gross arrogance to say that my culture's (any culture's) sex arrangements, styles of dress, food habits, etc. are true and all others false. Where's the proof? All these are matters of aesthetics, and all standards are purely relative and subjective in that area. Of course, rape and serving poison in the pie become moral matters....

Q: When all is said and done, who would dis-

agree with the doctrine of equal rights?

A: Most criminals and communists, relativists and pragmatists, aristocrats and New Leftists. The textbooks in ethics talk very little about equal rights these days, except to criticize it. There seems to be no dearth of moral dispute in our time. And not unimportantly, if we believe in equal rights, it is worth strengthening that belief by showing that it is provable and rational, and not just a mere personal whim or cultural dictate.

Q: Aren't there other good moral standards, the golden rule for example?

A: Yes, but if they are true they can be equated with equalitarianism, and what's more, only the equal rights statement is so phrased as to be provable. The golden rule, for example, can't be proven, although it may be a useful rule of thumb for Sunday school children. But when used by masochistic thinkers, or by thinkers with false moral standards, it can be positively dangerous. Torquemada could justify the Inquisition with the golden rule, for assuming his religious sincerity (which I for one would not doubt), he would want to have been tortured and even killed if he held views destined to lead him into Hell. The Soviet Presidium could likewise justify its invasion of Czechoslovakia and who knows what else by the golden rule because they might very well wish to be punished if they deviated from the Communist Norm. The golden rule is fine for nice fellows, but then that's what we want to find out in the first place: who are the nice fellows and what is nice conduct?

Q: Are you trying to undermine religious influence in the area of moral standards?

A: No, strengthen it. All the major religions believe in equal rights and insofar as I have substantiated that belief, religionists should be happy. They should be happy when reason comes to the aid of religion.

Q: Can you say that children, neurotics and psychotics have liberty, or free will, as you define it?

A: They have it, but only in limited amount, and we must restrict their freedom of action to the extent that they don't have it.

Q: If labor is the sole justification for private property, then how can you justify the private ownership of land?

A: Good point. Land isn't made by labor and therefore shouldn't be privately appropriated unless the landowner pays for his special privilege by being taxed on the full rental value of his land. Anything less would be a violation of equal rights. After all, what services does a landowner per se perform to justify his rental incomes? Of course, most landowners are also workers and as such they are certainly entitled to their wages; and if they are owners of capital-saved-up labor - they are entitled to a dividend or interest return for that contribution to production. But no individual created the land; he is not contributing anything to production except a legally created privilege - the legal (not moral) right to exclusive use of a particular area on the earth - and so he should pay the rental value of that privilege to society for all individuals to share equally.

Q: How can you justify inheritance?

A: If a man justly owns something, he can give it away; whether the act of giving takes effect before or after his death, no matter. An inheritance is a gift. We only should object to a particular inheritance if the property involved was originally obtained by force, fraud or special privilege.

Q: You know, often it is very difficult to tell where one person's rights end and another person's rights begin.

A: - Correct, but there are criteria. The right to life, for instance, takes precedence over the

rights to liberty and property because it is more inclusive: without life there is neither liberty nor property. Destroy life and you destroy liberty and property rights. Similarly, liberty takes precedence over property rights. Also, society through its agent, the government, has the duty to provide equal opportunity to all citizens. Rights may be absolute but they are limited by the equal rights of others.

Let's look at cases. A man can be killed if he is endangering the lives of others. We have freedom of speech but we shouldn't sing "Sweet Adeline" on the street at four o'clock in the morning. I have the right to property but I must meet sanitary standards in my restaurant.

The government must tax bachelors, thus reducing their property, in order to maintain schools. Rationale: all children should have equal access to the world's store of knowledge, limited only by their inclination or ability, otherwise they cannot be said to have equal opportunity and we infringe upon their liberty (their ability to prefer certain external cultural influences and to act upon them).

Take the case of civil disobedience. If the political channels for ending a gross injustice are closed, if the communications media are closed, if no milder alternative would be effective, then civil disobedience could be contemplated, this despite the disrespect for law and order which it engenders (which can in the long run adversely affect the protection of equal rights for all). Civil disobedience is therefore an intrinsically unethical means used (hopefully) for a good end, only as a last resort. If the situation is really bad then even revolution becomes a justifiable means.

Q: Should the government provide an equal amount of food for everyone?

A: No, but it has the duty to provide a

minimum amount of food to those who for some reason can't earn it, otherwise the right to life would be forfeited. Similarly, the government must provide a minimum amount of health (for life), education (for liberty) and welfare (for property) to all those who lack it.

Q: Even if the government has to take the property of individuals across the land in the form of taxes to pay for these services?

A: Just so long as more rights are protected than are limited by the taxes. Certainly the welfare state could grow to such proportions that this would no longer be so. Honest men could legitimately disagree as to whether particular welfare programs justify the taxes they require.

Q: Why do you consider only a democratic government to be moral?

A: A democratic government has as its purpose the protection of equal rights to life, liberty and property. It is therefore moral on that score. In a democracy, the means for approaching this goal are chosen by the majority, and this is moral because it recognizes the principle of equality: if individuals should have equal power to exercise their rights, then the majority should have more power than the minority. If a minority ruled, then the individuals composing it would have more power than any individual in the majority, a denial therefore of equal rights. But just as the power of individuals should be limited by the equal rights of others, so must the power of the majority be limited by the equal rights of individuals.

Q: Isn't subjectivism truly tolerant of other people's views, and thus more democratic than an objective approach?

A: No. We should not be tolerant of error just because someone else expresses it, but we should be tolerant of the rights of others to

express their views, even if we think they are in error. But this latter kind of desirable tolerance is exactly the doctrine of Objective equalitarians, although by no means do all subjectivists hold to it.

Q: The last question is basic: how can rights be proven to exist when they are abstract and immaterial?

A: A man has a right - a rational claim - based on how others should rationally act toward him. People should act according to the facts of reality, one such fact being that all people are equal as to having life. If they should treat each other equally in this respect, then they are according a right to each other, and thus we see that rights depend upon a basic ubiquitous fact.

An attempt has been made in this paper to prove the equal rights doctrine, using the generally accepted standards of proof. The position of moral relativism or subjectivism would seem to be untenable unless a specific factual or logical error can be found in the foregoing analysis.

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