

Forbidding Nasty Knowledge: On the Use of Ill-gotten Information

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ABSTRACT Some knowledge — most infamously, the Nazi experiments on human subjects — has been acquired by means which cannot be morally condoned however beneficial the knowledge may be. Yet, given that we now have such knowledge, it seems morally questionable to forbid its use where we know it can benefit us. Although a strong utilitarian case exists for deploying such information and although any pragmatic, humane person would use it where it could improve a situation, residual moral qualms remain which are neither the expression of sentimentality nor squeamishness. Given the evil source of the knowledge, can we avoid the charge that we are tied to the evil, and even respectful of the experimenters, by wilfully benefiting from the work? I explore a few arguments meant to remove the moral qualms and show them all to be wanting. However, because we in fact regularly and routinely benefit in countless ways from many systematic evils of the distant past without qualms, we seem to be inconsistently selective when it concerns certain evils. This inconsistency can be explained, if not justified, by appeal to a principle of decent delay which allows us after a time to ignore the origins of our present benefits and so make moral fadeout acceptable. This principle itself is grounded in our natural and increasing forgetfulness of events as they recede in time, an adaptive mechanism which allows us both to carry on our lives in relative decency and yet to maintain a fitting sensitivity to newer, closer evils which affect more immediately our relations with others and our sense of moral integrity.

Should there be any constraints upon our use of knowledge gained in ways we take unconditionally to be morally unacceptable? Should we set limits upon the application of such knowledge? The cases I consider involve ill-gotten information or nasty knowledge of a special sort; i.e., demonstrably important and beneficial information gathered methodically through means completely unacceptable to us. Well-known examples include research on human subjects performed by German and Japanese scientists, notably during World War II. No doubt, scientists of other nations were also involved in such forms of experimentation. In most such experiments, consent was not sought nor were the subjects free not to participate. This work is marked by standard operational routines. Its organised quality gives these cases a peculiar darkness.

Assuming the past research to be beneficial to us now, a simple, effective utilitarian reply would be to use it, all things considered. After developing this response, I devote the bulk of the paper to the moral qualms which, for some, remain, and to efforts to defend various non-utilitarian justifications for using such research. These justifications are sought by those who, having been swayed pragmatically by utilitarian warrants, need further assurance to counteract what they experience as residual moral unease brought on by the horror

associated with the source of information. These non-utilitarian supplements do not generally work well, and I close not so much with a final solution as with a consolation.

Recorded cases by German researchers are well documented. To focus the discussion, consider one of the well-documented Nazi experiments on hypothermia, this one undertaken at Dachau by Dr Sigmund Rascher and others:

[Certain] tests conducted by Dr Rascher were to observe the effect of immersion for long periods in very cold water. These were described by Dr Franz Blaha from Czechoslovakia who was arrested by the Germans in 1939 and became an inmate of Dachau. He was present at a number of these experiments:

The subject was placed in ice-cold water and kept there until he became unconscious. Blood was taken from his neck and tested each time his body temperature dropped one degree . . . The lowest body temperature reached was 19 degrees centigrade but most men died at 25 or 26. When the men were removed from the icy water attempts were made to revive them with artificial sunshine, hot water, electrotherapy, or by animal warmth. For this last experiment prostitutes were used and the body of the unconscious man was placed between the bodies of two such women.

(Dr Blaha's affidavit made on January 6, 1946 and sworn at Nuremberg) [1]

I must add — though this will play no role in the discussion — that I can find no interesting moral difference between these research cases, so graphic to us now, and the current daily routine use of other animals by researchers worldwide. This view is relatively controversial. For present purposes, the most useful cases are ones where no one now would suggest the work of the past to have been anything less than horrific. Other animals will have to wait their time for this verdict.

A Utilitarian Response

We may suppose that some of the nasty research was of a high standard and yielded results important for medicine and human biology; e.g., about tolerances to extreme cold and measures to revive those unconscious from hypothermia. The results of this research may be built into accounts we now take for granted as established medical fact. No doubt many lives may have been improved because of this knowledge, and more could be if we used it more thoroughly. Still, because we deplore unconditionally the means of acquisition, we may hesitate to use this information. Is this unreasonable?

The utilitarian would argue that we are strongly obliged to use it where it can make a positive difference without leading to further significant disutility. Anything which can provide some benefit has value, and such knowledge can provide benefit. It would be fanatical to act as if this information were unavailable. This would be like refusing, because of religious dogma, to allow a dying child a life-saving blood transfusion, or, to spend money to buy food to alleviate a starving person just because we know it is stolen. (I will ignore cases which raise fringe complications: e.g., where we use the information to save the life of one of the original researchers who might go on to his next stage of research.)

That great suffering and indignity went into the acquisition of this knowledge is all the more reason to use it now. At least we can work thereby to reduce the accumulated balance of disutility and maybe even overcome it with a surplus of good. This is not a form of

atonement, not a reconciliation with the dead; nor is it a form of expiation; i.e., reparation, compensation, or payment of a penalty, a purely retributive gesture none of which makes moral sense to the utilitarian. Simply, all things being equal, if we can diminish the standing balance of evil, we must do so; if we can create an overall balance of good, we must use it. Consequences outlive their causes. Our moral duty must at least be to take any opportunity to extend whatever beneficial consequences are within our power.

Of course, this does not support ever getting any information by such means again. On utilitarian grounds, a system of practice which permits such methods is on balance much less beneficial than one which forbids them. As for the suggestion that we create new negative utility by demeaning those who died at the hands of the researchers or creating anxiety and guilt in those who now use the information, the utilitarian can argue either that it is bound to be significantly outweighed by the long-term benefits if these are diligently pursued however callous it might seem now, or, that it is not negative at all since it keeps their memories alive and thus helps to ensure that this never happens again.

Utilitarian reasons positively support the use of such information if it is beneficial on balance. No one could find it easy to dismiss such reasons and flatly refuse to act on them. But some will nonetheless regard the utilitarian solution as partial, not because it overlooks any destructively large hidden negative utility, but because it ignores or underplays the special nature of the case. The utilitarian outlook typically applies distinctions of degree where others see distinctions of kind. For some, utilitarian analyses are bloodless, oblivious to horror or monstrosity which we might think makes us worse as persons just for being associated with such research. That we should become beneficiaries seems only to make matters worse [2]. There is something seemingly inseparable between the information and the character of those who obtained it. It is as if there were a taint of evil throughout.

In the remainder, I examine a few efforts at a case for the reluctant. The reluctant are those who would accept pragmatically a utilitarian policy in cases where real benefit can definitely be achieved and yet cannot shake off residual moral doubts, even disgust, and who need something besides a utilitarian warrant. My interest is in such non-utilitarian warrants or rationalisations for using such information that could go some way toward relieving the qualms of the reluctant. None of these is decisive, but each makes more plain the roots of the unease. This is largely an exercise in *a priori* moral psychology, a phenomenology of unease, merely tracing some options for relief none of which really works. I make no global claims about how we all in fact treat or feel about this issue morally or psychologically. Outlooks will vary. My focus is on one hypothetical group: viz., those who need to assure themselves that it is all right to use wilfully information the source of which they know to be unconditionally detestable, and how they might try to do so.

Dealing with Moral Qualms

(1) 'They would have been killed anyway'

One attempt at re-assurance is the reminder that these people were already doomed. It is not as if their degradation and death would not have happened without the experiments. So one is not somehow both a latterday beneficiary and participant in an otherwise preventable tragedy. But this provides little relief.

First, the available benefits arguably must be substantial. It is another matter to ask

whether, even on utilitarian grounds, using the information would be just as acceptable if not obligatory were the gain very small or were the advantage trivial. Suppose work had been undertaken to improve ways of curling hair but that, once the experiment was over, the subjects, having served their purpose, were killed. It would scarcely be fanatical to avoid using such information, whatever the inconvenience now. The difference of attitude in the cases derives not only from reasonable doubts about the long-term cumulative balance of benefit; it also reflects obscurely a non-utilitarian concern about possible retrospective disrespect for and even humiliation of the victims which is not obviously present in cases where we acknowledge a proper debt to the dead. There is added, if not original, indignity here.

Further, this view easily seeps into one sanctioning stripping the bodies of the newly killed or dead. Someone or other is bound to be able to benefit somehow from the effects of someone's death. But the worry is neither about benefit nor the prevention of harm but when it is morally acceptable or decent to benefit.

In brief, appealing to the victims' inevitable deaths does not add moral substance to the underlying thought that something might be wasted by shunning the benefits and that wastefulness is *prima facie* wrong. Appeal to the doom of the victims effectively ignores the special nastiness of the episode, and it is our moral response to that which needs addressing.

(2) *'The world is generally full of nastiness which I don't personally choose.'*

Threatening those with qualms is the powerful non-utilitarian scruple that *prima facie* no one should ever benefit nor has anyone a right to benefit from the proceeds of evil. The principle banning such unseemly benefit is silent on the identity of the benefactors and beneficiaries, but this is surely relevant. Clearly, one wishes to prevent the willing perpetrator of an evil deed from benefiting from it and yet one may argue that the victim of an evil deed has a positive right to benefit from what has happened. The troubling case involves bystander benefit, as it were.

An argument to defuse the principle against unseemly benefit might appeal to the commonplace of nastiness and the relative innocence of the present. Guardedly, one concludes that, although one hasn't a positive obligation to use such information to benefit others, it cannot be wrong to benefit from such information. For, if it were wrong to benefit from such information, so much else we do would be wrong by parity that we would leave no room open for morally acceptable decent lives. But many people must be acknowledged as leading such lives. Otherwise, the price would be too high. Original sin would be back.

The key factors are these: (a) the history of the world is replete with nasty episodes and (b) we did not in this case choose the nastiness of the past. The use of Nazi medical information is just a special case of anyone now benefiting or seeking to benefit or acquiescing in the benefit from past evil without having ever chosen that such evil take place. Since our present state is unavoidably built upon some morally nasty episodes which we did not choose, and since we may happen to derive some benefit from this past – whether by design or by accidental inheritance – our choosing this benefit in no way implicates us by way of responsibility for or approval of its unacceptable cause.

To elaborate, unless we wilfully remain ignorant, we all no doubt learn that our present good fortune or comfortable lives rests in some measure on the nastiness of the past. Even though it is melodramatic to say that our present is rotten with past nastiness, still, some good each of us enjoys rests atop a large causal nexus which contains much that is now

unacceptable. To some extent, we all live off the avails of exploitation and misery. Our present enjoyment of great ancient architecture like the pyramids depends causally upon the exploitation of past slaves. Colonial peoples are learning to accept their full and often destructive impact upon those they displaced. Our very enviable standard of living has been made possible in part by the ambitious and destructive opportunism of ruthless explorers, priests, statesmen, and tycoons. Indeed, prior to the increasing takeover of machines, it is our collective good fortune that life has indeed been cheap. Doubtless, much of the prosperity of the privileged now hangs on the availability of cheap goods, goods produced with cheap labour. Someone down the line generally pays for the benefits up the line. Some would argue that we haven't broken out of that dependency yet. It might have been otherwise, but it wasn't and still isn't otherwise.

This neither implies the omnipresence of evil nor attaches responsibility for the past to those living who never were part of it. It does, however, underline the causal truism that there are many ways we now benefit and accept benefit from circumstances we would nevertheless condemn unconditionally, those which we would from our present standpoint say should never have been as it was despite its having benefited us now. We all benefit from a past we would never have chosen. Indeed, we may even not have chosen these very benefits had we known in advance what was necessary for them; i.e., were we to have lived in the past which made possible the benefits we now enjoy, and were we then to have had the same views about the cause of the benefits, we would not have chosen such future benefits as benefits because we would have rejected their causes. For, surely, we do not argue that one evil past is that much better, that much morally more acceptable or preferable, than another which failed to leave behind something we now benefit from. Could I actually express a preference for a distant nasty past which led to some benefit, albeit unintended, over a distant nasty past which came to nothing? But if I do express such a preference, isn't that somehow to condone the nasty past? Can I say 'Better this never should have happened even if it means a great loss to us now' and still express a preference? The cases considered can be expressed by saying: 'Some good came of this, despite the villainy'. This is not to prefer villainy which contingently benefits over villainy which does not. That evil past has not somehow been retroactively vindicated let alone morally upgraded just because it happened to have benefited us.

Simply, we did not choose that evil past but are lucky that it happens to have been beneficial. So, we argue, we do not in fact choose these present benefits as effects of this evil past. They are simply benefits as such, almost gratuities of history, like coming across a land made fertile by the buried bodies of those slaughtered in a massacre. And so the fact of the evil of the past does not factor relevantly into our decision now to use those benefits which flowed from it. On these grounds, ironically, the only basis for renouncing the benefits now of such a questionable past would be if we had somehow been directly responsible for that very questionable past. Otherwise, we must subscribe to some version of visiting the sins of the mothers and fathers upon their children and their children's children.

This argument is designed to reject or at least soften any suggestion that those who benefit from knowledge or anything else come by unacceptably are themselves necessarily implicated morally in the nastiness if not as active collaborators then at least as quiescent sympathisers. Some such argument has to succeed lest we slip into a doctrine of universal and unavoidable moral sin. One trouble with universal sin is not that it's especially inappropriate; rather it is especially unfair in that it rides roughshod over morally relevant big differences. Lack of imagination aside, I cannot bring myself to think that Dr Sigmund

Rascher and I are somehow equally accountable. Again, just because I may benefit from Dr Rascher's discoveries, I personally did not seek to benefit from them and so cannot be taken to acquiesce in his methods. I may be lucky that Dr Rascher did what he did but would never have wished that he carried out his work.

One naively quick way of dealing with the scruple that one must never benefit from the proceeds of evil is to invoke an asymmetry; it applies only to those who directly caused the wrong, not to those who did not or could not have done so. But this is a much weaker principle of moral implication than many hold. Like the acts/omissions distinction regarding moral accountability, any moral distinction between benefits for agents and passers-by regarding moral implication is not absolute. If I strip the boots off someone killed by a stranger, I cannot unequivocally acquit myself by arguing that I was not the murderer. If my innocent family has been made very well off by the proceeds of my cocaine cartel, a new moral accounting arises upon disclosure. The onus may well be on my family to justify continuing to enjoy such comfort. In some legal jurisdictions, money deposited in a lawyer's trust account to pay for the defence of an accused may be seized if the money arises from the proceeds of crime. Thus lawyers may not benefit — even in ignorance — from the crimes of their clients. The phrase 'blood money' captures the sense that the causal nexus creating moral implication is wider than that assigning direct accountability.

A like appeal might be made to this argument: benefits from a nasty deed should never go to those who are responsible for them. But I cannot be responsible for past nastiness because I cannot be responsible for that over which I had no control. The trouble is that the question of responsibility is a red herring. Closer to the unease is the sense that one becomes tacitly and voluntarily linked both to the lives of the victims and of the experimenters, that one becomes a member of that world, an associate of that moral environment. And once that mood sets in, one cannot shake off the detestable quality of a world in which one finds oneself voluntarily placed. Backward causation and responsibility are not at issue; acquiescence, albeit of a shadowy nature, is since we are linked to the episode as willing effects to its cause.

(3) *'My interest is in the pure knowledge itself'*

If the utilitarian seems indifferent to the moral significance of horror, the account above still leaves too strong a personal link between past nastiness and present benefit. The taint of ill-gotten gains lingers, however strong the effort to distance ourselves in motive and outlook from our nasty benefactors. The taint is that much more prominent in our research cases because we first discover the evil and then its usefulness. The innocence of ignorance does not enter here.

Under one description, we wilfully decide to benefit from nasty knowledge. So, another argument is entered which establishes a conceptual dissociation and not one pretending to dissociate us causally, cognitively, and motivationally from the information. We are now free to use the ill-gotten knowledge to benefit us because, under the only relevant description, all we value is the *knowledge itself*, not the *means* of its acquisition. The question of origins, though tragic, is irrelevant.

Here we deploy the distinction between contexts of discovery and contexts of justification, a distinction related to *ad hominem* and genetic fallacy arguments. Ask not whether the hypothesis came from the mouth of a strange mystic (Kepler, for instance); ask only whether or not it is demonstrably true. In the research case, we invoke the argument *ad*

maleficum: Ask not what cruel motives or methods led to the result; ask only whether the result alone is worthy. Detach the person and personality from the product and ask of the latter — as if born *ex nihilo* — whether it is true or good or beautiful.

Unfortunately, the parallels with knowledge and truth may not work. One typical empiricist concept of truth or logical warrant has a primary impersonal reading. Persons are merely the contingent and substitutable generators of propositions, and it is propositions, as stand-alones, which are judged for truth or validity, not against their generators — who cares what they believe? — but against the world or a nexus of other propositions. Having generated the necessary propositions, the knower is jettisoned like a spent rocket stage which has got the semantic payload into orbit. Our concepts of good and evil have a primary personal reading. The generators of good or evil acts are responsible for them, accountable for them, justifiably rewarded and punished for them. However strong the drive to focus strictly and impersonally upon the act and its consequences, it is never *a priori* irrelevant to ask about the character and state of mind of the perpetrator. No such tight association connects generators of truths to their truths. There certainly isn't a formal relation in the theory of truth of *taking proper credit for* (versus *taking false credit for*) to match *being responsible for* in the moral domain. This is to say, again, that the history of the research seeps through to its beneficiaries, especially if they have knowingly sought benefit from it. So, a case must be made on behalf of the users of nasty knowledge, however sincerely they themselves detach what they value from its source.

The attempted warrant above fails in its effort to strain out the information from the source as if it could be objectified, de-personalised, by a verbal distinction. Ironically, this need to create a distance between the motive and the result may not be necessary, since the motives in themselves may not be singularly grotesque. There is no evidence of anguish or conscience professed by the experimenters in their actions as there might be in the case of the reluctant conscience-stricken torturer who must resort to final and desperate measures. The experimenters were not necessarily sadistic. The motive for undertaking the research was not itself necessarily evil. Furthermore, there may even have been nobleness of motive. It may have been prompted by the purest scientific curiosity or the genuine desire to help with human survival problems.

The problem lies in the very ambience of the work. Nasty knowledge cases display a cold-bloodedness which lends them an aspect of horror, the Kafkaesque horror of business as usual. [3] The very banality of this cold-bloodedness, made even worse as simple routine, makes it difficult to regard the information gained as if it were just any piece of information, only somewhat hard come by. Should we forget about its peculiarity and de-personalise or objectify it?

(4) *Do we legitimate the researchers by acknowledging the research?*

If we use nasty knowledge as if it were like any other information don't we somehow legitimate those who provided it, give them respectability as researchers and discoverers of the truth, identify them as benefactors of a sort? This may arise unwittingly through the usual dry conventions of scholarly interchange; journals, working papers, reports to colleagues. The results of Dr Rascher may conceivably have been published in the journals of his day under titles decipherable only to his equally scholarly colleagues. We now might cite work and results by Rascher and thereby give them fully professional standing. In so many ways, the work has legitimately earned this standing if it was well done.

This seems to be the concern expressed in the following outline of publication policy of the New England Journal of Medicine concerning ‘unethical research’:

The New England Journal of Medicine has taken the position that it will not publish reports of unethical research, regardless of their scientific merit. There are three reasons. First the policy of publishing only ethical research, if generally applied, would deter unethical work. Publication is an important part of the reward system in medical research, and investigators would not undertake unethical studies if they knew the results would not be published . . . Second, denying publication even when the ethical violations are minor protects the principle of the primacy of the research subject. If small lapses were permitted we would become inured to them, and this would lead to larger violations. Finally, refusal to publish unethical work serves notice to society at large that even scientists do not consider science the primary measure of a civilisation. Knowledge, though important, may be less important to a decent society than the way it is obtained.[4]

The deterrence effect is perhaps optimistic. Unethical research can often be described in ways which underplay the methods employed. The last reason subordinating the value of knowledge to the means of its acquisition is, however, pertinent in suggesting that the good name of science depends upon the assumption that publicly presented and recognised work can generally be counted upon as having conformed to moral considerations.

By seeming thus to legitimate the research, the worth of the victims is thereby demeaned. Just calling them ‘subjects’ gives the work a deceptive blandness. The very anonymity of the victims puts them squarely in the same category as so many nameless laboratory animals on whom dispassionate research is today routinely performed. Arguably, this comparison merely condemns one evil by appeal to the legitimacy of another; however, for present purposes, it is sufficient to note that the fear of legitimation rests partly on the concern that contemporary users of the information will treat it too professionally as nothing but information and so bury the nastiness by institutionalising it out of existence, as do many organisations and bureaucracies their many evils.

But, if we think that such work cannot ever be condoned, that it must never again be possible, that its authors are forever associated with the nastiness of their work, surely there is something macabre about citing it, listing it in a bibliography, unless one were writing *about* it. Otherwise, it would almost be like citing *Mein Kampf* authoritatively on matters of racial purity or national destiny. Attempts to distinguish morally between the use and mention of information may not be convincing for the question of moral unease may concern the very *reminder* of such work whether in quotes or not. So, equal qualms may arise from contexts such as this paper or works of art like films which re-enact the events. However, the details of these cases arguably differ from those where the information is simply absorbed within scientific practise. We must ask: (a) are we using the information simply as information?; (b) is it being used in order to benefit directly from its content?; (c) can one legitimate such work which is principally cited as a powerful example of nastiness? One lingering problem throughout has been the peculiarity of treating the research merely as research. Clearly, this cannot be the problem — if such there is — with discussing or depicting the research as evil.

All that aside, Dr Rascher has a scientific edge. Unlike Hitler, he putatively gives us truth. Human males generally die, he determined, when their body temperature drops to 25 or 26 degrees centigrade. He shows this. And then we might unself-consciously switch modes and read with fascination just for the facts. Were the temperatures properly measured? Was there a proper control group? How big was his sample? Did he compensate for variations in body fat and other factors? And so on.

Here lies the core of the unease. Whatever the uncontested benefits of the information, however well assembled it was, it somehow seems either that we cannot remain neutral to it or, if we can, we should not remain neutral to it. But the recognition of the evil that seeps through cannot itself reduce to an empty formality like hanging the flag at half-mast or wearing black. Little is gained by saying that we must remind ourselves when using this information about the nastiness associated with it. Like warnings about lethal consequences on packs of cigarettes, reminders become mere asides. Otherwise, if the reminder were truly effective, it would not be possible to examine the facts dispassionately, analytically.

But this is a hopeless dilemma: either we become another colleague or distant beneficiary or student of Rascher with extraneous pious head-shaking about the 'unethical' conditions of research, or we reject utterly everything he left us. This latter response is, in some circles, often the only option left to those who will not accept the acquiescence of association.

(5) *'The researchers were ordinary people working in different contexts'*

Maybe we can defuse the dilemma either through (a) assimilating the episodes into the commonplace or through (b) isolating and rationalising the episodes within their own self-contained and self-justifying context; i.e., (a) we may aim to normalise the actions by normalising the agents and their circumstances or, alternatively, (b) we may summon the historical and cultural uniqueness of the circumstances which render them inappropriate objects of condemnation from without.

(a) Normalisation requires only that we take what went on as much more like what goes on and is accepted now than it may seem. We may learn to temper our response to putative evil by identifying motives which independently are ordinary or features of personality which suggest that, both within and outside the laboratory, these people are very like us; at least, they are indistinguishable from the population in which they lived, a population which in all relevant respects is indistinguishably human. We may accept that sometimes these people were indeed only following orders or only engaging in their research, and couldn't have imagined acting otherwise. We all know how often we mindlessly do our jobs, how flatly resigned we become to satisfying the idiocies of bureaucrats we self-protectively de-personalise, how generally prone we are to conform to the moral, cultural and socio-political status quo just to get on quietly with our private pursuits, our cherished projects.

(b) Sensing instead very major differences of context, we may cultivate a broadmindedness based on the relativity of cultural differences. Certainly this cultural expansiveness lets us discuss quite neutrally certain acts and customs of culturally distant peoples which, if practised by our own, would be taken as sheer barbarism and viciousness. Perhaps each specific cultural envelope should be treated as hermetically sealed. This makes sense of – even legitimates – so-called 'evil' as it does witchcraft and religion. The Japanese physician, Ken Yuasa remarks that he and his colleagues 'laughed and joked' while experimenting on Chinese prisoners: 'We didn't think there was anything strange about it'.^[5] There is nothing unviable about cultures in which such divisions between permissible and

impermissible acts are made. We have our own varieties of normal practise which, from other vantage points, are just as nasty. Perhaps the problem is a lack of imagination; perhaps some people just cannot help being repelled by practises which others regard as routine. Of course, it is impossible to refute such views or expose fatal inconsistencies in them. It is similarly mere posturing to call such German, Russian, Japanese or American research pathological. These enterprises are just expressions of larger cultural regimes, nor can we trumpet pseudo-universal vagaries about human flourishing or achieving potential or autonomy or happiness or dignity without begging all the questions about categories of moral membership. Moral relativism, besides, fits comfortably with ontological relativism, ways of world-making, various versions of idealism, anti-realism and pragmatism, many of which seem independently attractive. The world can be cut where we need and care to cut it. Chinese, Non-Aryans, Non-humans fall outside certain cuts if you happen to be Japanese, Aryan, or Homo sapiens.

Even if some take their native revulsion more seriously than they merit, many cannot thus broaden their sphere of permissible acts to allow acceptance through understanding of past evil. To understand in this sense is to accept something as if it were merely part of things, something which, like a visiting comet, passes by us and removes to another place. From our present vantage point, the closest many can imagine coming to accepting past evil morally is definitely not by neutralising it, legitimating it, valuing its long-term positive consequences, or discovering its meaning and point in its proper cultural setting.

It is only somehow by *forgiving* it that acceptance becomes possible. Forgiveness in this case demands redemption. Redemption will not flow from a simple utilitarian debit-credit exercise. One cannot say that, after all, what was done has turned out on balance to have left us a world with greater benefit than one which never witnessed the original deed. The evil is redeemed only by treating it as the expression of a pathetic or lesser or inferior agent or culture. Though one may be swayed by the sentiment of the line 'To err is human; to forgive, divine'[6], what really fuels this is the quasi-relativist and pro-deterministic reflection that, because these parties to evil couldn't have conceived and operated on other alternatives given their culture, their acts, though unmistakably evil, can be understood and thereby charitably pardoned. Note though that this forgiveness and pardon come only on the assumption of (i) the moral superiority of the forgiver and correlatively (ii) the view that the perpetrator is somehow less autonomous than a proper moral person, less than fully human from a moral perspective, a being born into a degenerate culture. The perpetrator, to be forgiven, must be reduced to and seen as a lesser being, if not a passive victim, manipulated by social and political forces.

This must seem outrageously pompous and condescending especially when the forgiveness is neither sought nor appreciated. The agents of routine evil themselves may consider the context of their actions deterministically, but they will not accordingly diminish themselves as lesser beings, beings more trapped, more pathological, than others. They might insist that anyone in such circumstances would have done the same. And this may be true. It is historical bad luck for Rascher that he was drawn into concentration camp research and that the Germans lost — nothing more. Here normalisation is the fallback in the context of peculiar and irresistible, if not aberrant, social forces.

In thinking the perpetrators unforgivably evil, we can accept them as full moral agents but only if we attribute to them very nasty and virtually unintelligible characters. As unforgivably evil beings, we cannot conscientiously benefit from their acts. But, in forgiving them, either we willingly identify ourselves with them and their circumstances (which is to

extend Humean sympathy just too far); or otherwise we deny them full moral standing and thereby dissipate the evil by re-routing it through and allocating it to impersonal and so unblamable social forces.

This latest non-utilitarian refuge is to forgive but not to forget. And yet not to forget is to draw back the associations. How well these might be de-clawed by drawing on the pathos of a lesser culture I do not know. What does seem apparent is that a great mental effort is required. We must recast the characters and the scene to make them either so different from or so much like us as to cloak what seems simply obvious — that these were people who did terrible, almost unimaginably different things who were, all the same, like us, but never *just* like us.

(6) *Time and Diminishing Concern*

Consider again the matter of the omnipresence of nastiness and the proper effect it must have. Historically, culturally and temporally, we are relatively close to Dr Rascher. By wilfully using his results, we aren't terribly far away from his laboratory in Dachau. We are, further, highly sensitised to the continuing barbarity of our century. Television and film bring the nastiness closer than most civilians ever before got. But we have also learned that our century isn't especially cruel and wicked, however efficient.

In general, the greater the spatial distance between me and an evil occurrence, the more that evil occurs for me in a correspondingly distant or at least fainter moral space. This has everything to do with the relative personal and cultural anonymity of strangers in distant places. Temporal distance adds an even stronger effect. I may visit ancient ruins in Italy, Egypt, and Mexico and learn that these were the sites of unspeakable atrocities. I may even shudder at some of the details. But I may also successfully detach this revulsion and it may not affect my genuine enjoyment of the ingenuity and beauty of the structures.

Of course, a subsequent discovery of nastiness may change the way we value certain things:

I am given a rather beautiful, delicately constructed object. It is something I treasure and admire, something in which I find considerable aesthetic value. Everything is fine until I discover that it is carved out of the bone of someone killed especially for that purpose. This discovery affects me deeply and I cease to value the object in the way I once did. I regard it as in some sense sullied, spoilt by the facts of its origin. The object itself has not changed but my perceptions of it have. I now know that it is not quite the kind of thing I thought it was, and that my prior valuation of it was mistaken . . . The discovery about the object's origin changes the valuation made of it, since it reveals that the object is not of the kind that I value . . . There is at least a *prima facie* case for partially explaining the value of objects in terms of their origins.[7]

But this does not cover cases where we know from the start the nasty history or function of items. Consider the finely carved tools for eating human flesh displayed in the Auckland Museum. Nor does this show that the prior positive valuation was 'mistaken'. Facts of origin need never influence the way we value things aesthetically — formalists argue that they must not do so — and aesthetic value need never be perturbed by moral doubt. At best it has been tempered or undermined so long as one cares in the first place about the origin.

Likely, I will not suffer any doubts about whether or not I should enjoy my visits to these places. I will not indeed visit a pyramid as a brutal testimonial to human bondage, but I will visit Auschwitz as just that. We can ignore the fact that the structures and visits have differing functions. Auschwitz existed as a death camp whereas the Pyramids were burial chambers built by means of slave labour. I visit the Pyramids as architecture whereas my visit to Auschwitz is a form of moral reminder. These are unimportant differences. Auschwitz could have been architecturally appealing. If anything this would heighten the grimness of a visit. The salient point is this: we often successfully distance ourselves from past evil and so can achieve full aesthetic enjoyment or other benefit, whereas in other cases we haven't so distanced ourselves and so cannot benefit. Although we can imagine bringing the horrors of the past very much to life now by vivid re-enactments or descriptions, time seems otherwise of itself to be a prominent factor in our capacity for detachment.

Does this expose an inconsistency, a confusion? Does the power of the memory of recent events make us merely fanatics and obsessives unable to balance our moral reactions? Does it trivialise and make merely melodramatic any worry about the so-called taint of evil? The answer is: yes and no.

It trivialises the taint of evil by exposing what looks like moral provinciality. David Hume and Adam Smith identified that small-town native warmth we all emanate and are drawn to, and the huge problem of getting us to use it to heat faraway places.[8] There is no problem about the presence of moral sensitivity, concern for others, in most of us. We get that without charge by birth through our hard-wired tribally-directed affective affinities. The problem is to get beyond hearth and tribe, our local spaces and times, to generalise our state precisely by discounting and overcoming these bounds of prejudice. Coming to sense evil where before there was routine, indifference, or even magnificence is very difficult. Unwittingly perhaps, we sustain our moral provinciality by selectively isolating identifiable villains. We avoid the awkwardness of seeing too many villains or pushing too hard at the limits of moral acceptability. The fact remains, however, that the victims of ancient times suffered ends as nasty as those of our own recent time, maybe worse, however anonymous the villains and victims are now. The fact also remains that, the causal web being what it is, our time is grounded on theirs, and our lives in part intersect with theirs. The web of association cannot be breached. Add to that increased awareness, the less we are isolated and morally sealed off, the less innocent we are. The less innocent, the more embarrassing our moral provinciality.

On the other side, however selective our moral intensity, however increasingly unsustainable that intensity becomes with temporal distance, the cases to which we now react strongly are not thereby utterly compromised by differential response. How so?

(i) However intertwined the whole causal story, we are causally closer to recent events and persons and so bound up in them more concretely. In approving the use of Dr Rascher's work, I may chance to offend a survivor of Dachau or a close relative of a victim. I am very unlikely to offend anyone living by expressing admiration for the pyramids. The implications for virtuousness are manifest. The closer I am to the nasty event, the greater the real (however unwitting) opportunities for me to be callous, insensitive, disrespectful, and even opportunistic. Reacting most strongly against recent evil, I thereby control if not minimise the risk of my own capacity for offence.

(ii) Any moral sensitivity, however local, is valuable. Better we should react to some evil than to none; better we should feel intense moral qualms for some events than react to all with an equal detachment. Ironically, consistency in response itself may trivialise these very

responses if we are consistently unmoved by the special quality of evil. What we merely judge to be so will seldom be so vivid, effective and morally rich as what we feel to be so. To acknowledge evil fully demands an experience of revulsion and innocent incredulity. That we are so capable at all is good news and a necessary start. It would be a human being deprived who had no sense of evil.

(iii) Further, such full responses against proximate evil serve to discourage its re-occurrence in the near future. There is less moral purpose served in reacting with horror at events which, for reasons of history, could not or would not be re-enacted now. This differential functionality of the power of our reactions is not so much a wilful element of our moral strategies as it is an adaptation in social response favoured by the collective advantage it brings. Its seemingly wilful dimension emerges in occurrent quasi-fatalistic beliefs that, for example, one cannot re-shape the distant past or that one cannot rail against a company of ghosts.

Behind this awareness of the futility of a sense of horror about events long gone there lies an ever-present psychological extinction effect which necessarily constrains the fullness of our responses to the past. Time doesn't heal all wounds. If it did, the evil of the past would simply vanish without trace the way a headache does. But time does largely dull the memory and at least removes from whatever remains much of the force of the associated revulsion, as if obeying some Inverse Law of moral impact; stuffily, the moral impact upon some person at time t_2 of an evil event E at t_1 varies inversely with the temporal distance of E from t_2 . Eventually the impact, if left unrevived, fades to nothingness. The time required may be very short indeed even by human standards. The fadeout factor may be an exponent to the third or higher power.

Insofar as time dulls past revulsion, our acknowledgment of past evils becomes increasingly dispassionate. This cannot be helped however pathetic it renders the sincerity of everlasting declarations of the form: *Je me souviens*. The ubiquitous Great War memorials still dominating many villages tell much of the sad story. To many alive now, these are (merely) items of public statuary, some better done than others. They have crossed over without ceremony into the domain of aesthetic objects detached from their sombre heritage. Many were built and prominently placed precisely as blunt and unavoidable daily reminders 'lest we forget' to counter our natural forgetfulness. Such transfiguration will befall the now chilling Vietnam War Memorial in Washington D.C.

Note, once we are far enough from an episode to be dispassionate about it, the very issue and option of forgiveness doesn't arise. Our opportunity to forgive has passed at that stage because we no longer have to overcome or conquer our strong negative feelings. These have quite dissipated.

(7) Moral Fadeout, Periods of Mourning, and Decent Delay

Native moral fadeout serves as a mechanism to explain and even excuse what otherwise seems to be an inconsistency of attitude. The factor of causal proximity and the reality of 'living remains' again explain why our attitudes about present and past evil may vary. Do these also morally justify that difference of attitude? If so, it would make the wrongness of using nasty knowledge a function of the relative immediacy of acquisition. Is it morally worse to use nasty knowledge very soon after it has been acquired than very much later? Does the reality of causal proximity intensify the moral wrong in using it? Or, is it merely a question of available knowledge about the past? Does knowledge actually cease to be nasty given

time? Presumably we can make past evil events very graphic through powerful description. Perhaps it doesn't matter when the nastiness occurred. May the question concern only current *awareness* rather than temporal occurrence?

On the face of it, being temporally closer to some evil from which you benefit does seem worse than being distant. As suggested above, temporal distance may affect the quality of an act's virtuousness; e.g., benefiting from a recent horror may seem callous and opportunistic while benefiting from a very distant one may seem neutral or even resourceful. Presumably, one must conceive a transition between these extremes. But instead of justifying a sliding scale of moral implication, this may downplay a crucial proximity factor that makes all the difference; viz., being immediately and wilfully involved in the performance of an evil event for the express purpose of achieving a certain beneficial end as compared with being linked to that event merely by virtue of being a fortunate if not lucky beneficiary of its effects. Although one chooses in both cases to benefit from the evil, the causal histories are different. Only the former explains why the evil occurred.

This granted, we might still draw a distinction amongst those who benefit without having caused their own good fortune by saying that considerations of *decency* make a difference and what it is decent to do changes with temporal distance. So, consider that the obligation of decency carries with it a temporal inhibitor which establishes a mourning period; e.g., it is morally indecent and so impermissible to do X until an interval of time, the mourning period, has passed. Once passed, doing X is exempt from (all) moral censure and may even be recommended or become obligatory. The subsequent post-mourning obligations might derive from utilitarian considerations which are overridden during but which kick in after the mourning period.

Such considerations are occasionally rather formal. With periods of mourning for the death of a spouse, it may be a violation of decency to re-marry before the expiry of an assigned time. Such an act may be indecent because disrespectful to the deceased or to the memory or living descendants of the deceased. Long after some prescribed mourning period, it may be thought almost pathological not to re-marry. These practises may themselves be ritual versions of a more general principle of decency which effectively rules that at some point after an event, we are no longer obliged to take the salient moral aspects of it as strongly inhibiting however much we may think it fitting that these aspects not be neglected altogether. Whether or not we are also under a weak obligation to try to sustain memory I cannot say. Some such consideration may easily be applied to the use of nasty knowledge; i.e., that whereas it is indecent to benefit from such knowledge soon after its acquisition, later on its use is permissible and even required.

The mourning period principle, however, does not itself offer a reason for loosening and eventually ending periods of moral prohibition. Indeed, such attention to decency seems more easily *explained* by the real extinction effect and framed as being in accordance with it than understood as a self-standing justification for differential conduct over time. The principle is a moral codification of a natural process, a form of moral permission to forget which nature will impose on us anyhow in the long run. Once we forget by natural causes, so to speak, we re-inherit our moral innocence by default. Being no longer party to painful memory, we are, on that score at least, set morally to zero. After all, is there anything which materially changes after the mourning period besides the intensity and recall?

Because of this recognition of the natural decline in intensity, the mourning period notion may also encapsulate a form of practical wisdom. That is, because of the strong links between affect and the unsettling events of the recent past, actions which ignore these links

are not only morally questionable but psychologically unwise because they may well carry repercussions in the form of guilt, regret, or the effects of imprudence. This residue of mixed feelings and unwanted results, the effects of which upon us no one can predict in advance, may largely be avoided if one lets the affective associations drain away naturally as they are sure to do. Mourning periods are a form of insurance against the unwanted control our feelings may have over us. Thus the wisdom of cooling off.

Cooling off varies from person to person. Some do it too quickly; others never do it. The value in externally established mourning periods where limits are formally set is that they make permissibility a matter of public declaration rather than leave it to the vagaries of personal intensity. This, at least, sanctions certain public actions which might otherwise be resented and censured by other parties. Thus the declaration is made that this person has dwelt on the past long enough, and is no longer to be held morally captive by it no matter what others think and no matter what psychological hold still remains. If nothing else, this formal public release from direct moral involvement with the past constitutes the properly moral stake in principles which set temporally limited prohibitions on action. Having lasted out the necessary constraint period, we are finally excused from our involvement and allowed to carry on independently of it. This figuratively if not effectively re-categorises events of the past. Like an amnesty, it clears the record and permits us to appreciate past events merely as occurrences with incidental, almost honorific, moral overlay where fitting.

(8) Native Forgetfulness as Consolation

So, the disappointing solution to moral qualms lies not in forgiving — which is either impossible or condescending or simply runs out of opportunity — but in persevering long enough to forget which will transpire whatever we plan. Since we cannot obviously make ourselves forget (as we can make ourselves remember), and since forgetfulness is a state to which we all must inevitably tend, the state of having forgotten over time can be neither the fulfilment nor the violation of any general obligation. Though we may occasionally be obliged to remember certain things, we cannot be obliged to remember everything. Since it is naturally easiest to forget events the more distant we are in time from them, it cannot generally be incumbent upon us to sustain just those memories which are most difficult to sustain.

The final stop is this: we will in time, over generations perhaps, forget and thus lose the sense of immediacy of whatever happened and be left appreciating the residues in their own right as beautiful or helpful or true, without ever having forgiven or come to terms with the perpetrators. The effects of effective extinction are guaranteed given time. Psychologically, it takes more energy to retain the immediacy of feeling occasioned by an event than to store and retrieve data. In the end, because much of what we believe and value has its source in what would be unacceptable if immediate, and because, as creatures, we need and can exploit the data more profitably than our feelings about them, we just naturally wind up shearing the consequence from the cause. It is an innate exercise in redundancy clearance.

Does this clearance have survival value? Probably, for we consider obsession self-destructive, and, surely, resisting too long the native drift away from the full history of things is obsession. Does it make things easier? To some extent it must because it spares us the debilitating effects of an emotionally unworkable constantly growing fund of horrors revealed to anyone whose mind is not numb. But we are never fully freed, for, although we are always spared the confusion and paralysis of full and complete recall of affect and

information, at any time, we find ourselves invariably with parallel outlooks, states of full immediacy and the more manageable filtered and edited states; i.e., those in which cause and consequence, past and present, history and immediacy, come bundled, and those in which we deal with simple states of affairs uncluttered by their pedigree and judged only for their value to us now. Each person and, indeed, each generation will be marked by its own distinctive concurrent outlooks, its own unspeakable horrors resting side-by-side with its once unspeakable but now dissipated ex-horrors. Perhaps we even have a threshold, an upper limit on what we can carry in full intensity which changes content on the basis of temporal residency limits, so to speak. Certainly, no outlook marked by the immediacy of its horror survives over generations. Most don't survive an individual lifespan.

This, of course, provides no reason at all for using any nasty knowledge. It provides no warrant. We have here consolation, not argument. It simply says this: whatever bothers us now will not bother our successors or even us later in life. We uncomplicatedly admire the Pyramids. Our successors will appreciate and benefit fully from that which we cannot now abide. Should it be so? Should the sun rise?

(9) *What Difference the Horrific Makes*

The horrific makes all the difference to the case for us now, of course. However we now wish to accommodate these cases within the normal framework of information use, we never do so by showing them to be like ordinary cases gone wrong. To experience an episode as horrific is precisely to tag it as one to which the usual pragmatic and 'rational' considerations fail to apply cooperatively. The utilitarian sanction of the use of nasty knowledge, though pragmatic, business-like and possibly humane, never properly accommodates the moral and psychological residue; namely, doubts connected with association, concern about being implicated in the evil by benefiting from it or by tacitly legitimating or at least downplaying the evil by acknowledging the experimenter as a contributor to knowledge having already accepted the experiment as a contribution. All of these elements matter in a global moral sense, the state we are in which demands full moral resolution, the state which seeks a form of matter-of-fact personal extrication and the extinction of all doubt, guilt, and hesitation. But this means that, even if we use this horrific information to a worthy end and feel justified in so doing in virtue of that end, it can never be without qualm, reluctance, or even guilt. These residues are not incidental to the circumstances. They tag it precisely as a willing exposure to something terrible, and leave it in unresolvable conflict. The good news is that whatever evil seeps through, eventually seeps out, and so, at long last, no one is left to remember where it counts and what the fuss might have been about.

Of course, those who forever fail to see what the fuss is about have already successfully and uniformly performed the necessary dissociations of agency and moral character from results, moral and emotional qualms from truth, and the taint of origins from warrant. Alas, these great souls are outside history and humanity, and have little advice for those of us trapped within.[9]

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NOTES

- [1] Reported in Lord Russell of Liverpool (1954) *The Scourge of the Swastika* (Ballantine Books). Lord Russell held the post of Deputy Judge Advocate, British Army of the Rhine in 1946.
- [2] Bernard Williams has emphasised these factors powerfully in his charge that the utilitarian cannot appreciate tragedy. See the discussion in (1973) *Utilitarianism: For and Against* (Cambridge University Press).
- [3] Epitomised in Franz Kafka's *The Penal Colony* and *The Trial*.
- [4] Marcia Angell, The Nazi Hypothermia Experiments and Unethical Research Today, *New England Journal of Medicine* 322 (17 May 1990), 1462. Quoted in a posting by William Grey on Internet List SCIFRAUD, 9/26/95.
- [5] The comment appears in a recent Associated Press release on Japanese experiments printed in *The Press*, Christchurch, May 17, 1995:

Tokyo — A doctor who performed fatal experiments on Chinese prisoners said yesterday he was outraged and saddened at Japan's reluctance to apologise for its World War II actions. Ken Yuasa, 78, said he and other surgeons routinely performed amputations, removed organs and practised heart injections on Chinese prisoners. Most Japanese army doctors were under orders to perform such operations as practice for treating wounded Japanese soldiers. 'We laughed and joked as we did this,' Dr Yuasa said. 'We didn't think there was anything strange about it.'

- [6] Alexander Pope (1711) *An Essay on Criticism* [line 525].
- [7] Robert Elliot (1982) Faking Nature, *Inquiry*.
- [8] David Hume (1751) *An Enquiry Concerning the Principles of Morals* and Adam Smith (1759) *The Theory of Moral Sentiments*.
- [9] Special thanks to Daniel Godlovitch, Glenys Godlovitch, Richard Keshen, and Eddy Zemach; and to David Novitz, Christine Swanton and others for helpful comments from the floor at the Australasian Association of Philosophy Conference, University of Canterbury, Christchurch (August 1995).