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ARISOTELIAN AND CONFUCIAN CULTURES OF AUTHORITY:
JUSTIFYING MORAL NORMS BY APPEAL TO THE AUTHORITY OF
EXEMPLARY PERSONS

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Dedicated to my own exemplars:

CLAUDIA CLOSE and JOCELYN HOY,
for modeling wonder and the teaching of philosophy;

and

CASSANDRA SWETT,
for modeling friendship.
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Abstract

This thesis attempts to argue that exemplary persons—teachers, parents, etc.—are norms in their own right. They do not merely exemplify virtues or demonstrate a life according to duty, nor are they simply the embodiment of a bunch of moral principles. Rather, they are a unique variety of norm altogether, and, as Aristotle and Confucius illustrate, can be a moral system’s most basic norm—that is, the source of justification for all other norms, and the source of their own normative justification.

To defend these claims I begin, in the first chapter, by discussing the meaning of the word “norm,” and then turn to a consideration of the requirements for justifying moral norms. This consideration touches directly upon whether exemplars can carry their own justification, and uncovers one of the major obstacles involved in successfully arguing for the normative justification of exemplars qua exemplars. That is, the Kantian line of thought that holds two things: (1) that all moral norms must be justified on a priori grounds, and (2) that if exemplars were basic norms, they would condition moral blindness on the part of the emulator—that is, the inability to think critically about the moral worth of one’s exemplars.

Because the normativity of exemplars comes from experience, they can never be necessarily and universally normative; so to agree with the first of these Kantian claims is to preclude the possibility a normative justification of exemplars qua exemplars. In an attempt to overcome this obstacle I problematize the Kantian position by arguing that the
justification of any of our moral norms—not just exemplars, but principles as well—cannot be secured a priori. This forces us to look for normative justification from within experience—proving the possibility, at the very least, of the claim that exemplars can be a moral system’s most basic norm.

In the second chapter I use the ethics of Aristotle and Confucius to illustrate how one can treat exemplary persons not only as norms, but also as the most basic norms in one’s ethics. In the last chapter, after exposing and attempting to overcome the shortcomings of the moral systems of Aristotle and Confucius, I endeavor to undermine the second of these Kantian claims by showing that the very nature of an Aristotelian or Confucian exemplar’s authority forestalls if not moral blindness altogether, then at least the major problems with moral blindness.
Exemplary persons surround us. Parents, elders, and teachers model social roles, relationships, and etiquette. Master-workers model technical skills. Many of the people we know model a number of virtues, while perhaps a few people we know model a style of living that can be said to comprise a good life. Philosophers have long acknowledged the pedagogical import of exemplary people in moral education, and it is a very commonplace idea that one can learn to be a good person by emulating good people and a bad person by emulating bad people. The question that concerns this thesis, however, is not the nature or place of this process of emulating an exemplar, but the normative status of exemplars. Are exemplars normative merely because they are useful pedagogical devices? This would mean that their normative standing depends upon the justification of the norm they are said to be modeling. Or, perhaps, do exemplars model norms that cannot be justified without them—proving exemplars to be norms in their own right?

How might we go about answering this question? Certainly Kant and contemporary Kantians would have great difficulty accepting the idea that exemplary persons could be norms in their own right. So we would do well to first consider the Kantian challenges, and take our starting point from them. But before we can do this, we must first get clear about what normative justification requires, and—for that matter—what, exactly, a norm is.

If we look to the etymology of the word “norm,” we find that it comes from the Latin norma—the builder’s square (Railton 1). In its broadest sense, then, one might use the term “norm” to refer to anything that could, like a builder’s square, function as a standard. This would include many sorts of things—not just the builder’s square but
many other objects that function as instruments, legal standards like a State’s constitution and its various laws, and all manner of imperatives, prescriptions, commands, orders, that are directed at us by people or institutions with authority. It would also include the rules of games, as well as the customs that compose our social grammar and regulate how we interact with each other. It would even include role models who exemplify conduct that is either skillful or virtuous.

While using the paradigm of a tool like the builder’s square to illustrate norms is useful for highlighting that all norms are standards, it can be misleading if it leads us to think that being a certain type of thing, like a tool or any of the other examples of a standard, is sufficient for being a norm. This misunderstanding can occur because a builder’s square is, in some sense, as much a “standard” when it exist as an inert sheet of steel in the dusty, forgotten corners of a work-shed as when it is in the hands of a builder. But it is only when it is in the builder’s hands, used in an activity as a standard that guides her actions, that it becomes a norm in the sense familiar to the current philosophical use of the term (see Korsgaard, Railton, Owens, Von Wright, etc.).

Likewise, only our own State’s constitutions, or our own role models, etc. are norms in the philosophical sense. This is because a norm is not just a standard, but also a prescriptive standard—and prescriptivity is not a property things possess by themselves.

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1To say that norms are “prescriptive” is not to restrict them to prescriptions, which are acts of linguistic communication. Since norms command, guide, recommend, etc., they are commonly objects of acts of linguistic communicative—often, such things as a spoken command or a written order. But we can easily think of many examples of the communication of prescriptivity that require no words. A child tugging on her father’s sleeve, and pointing wonder-struck into the night sky. A traffic light that turns red as a driver approaches. Certainly these are both acts of communication, and are both prescriptive, and yet they do not involve words for their communication or prescriptivity. Hence norms may be communicated not just in sentences, written or spoken, but also by gestures, facial expressions, rituals, and many other forms of social conduct. And, for that matter, they may also be acts of communication within oneself—such as memory of norms, feelings of aversion, or the call of conscience.
As Anscombe and Wittgenstein both argue, that which makes something prescriptive is not some inherent property of a thing, but the relationship that a thing has with us in the context of our activities (Anscombe §32; Wittgenstein §21). We can illustrate this by adopting an example Anscombe gives us in her book *Intention*. Here’s a slightly modified version: imagine that we are grocery shopping for a sick friend with a grocery list he has given to us. Now imagine that as we go through the grocery store, making our selections, we are being followed by our jealous ex-lover who records every item we put into our basket. Say that by the end of the grocery run, by dutiful fidelity on our part to the objects prescribed on the grocery list, and by keen observation on the part of the ex-lover, the list in our hands and the list in the ex-lover’s are identical—at least in terms of the words they contain. Yet, despite their being identical, the list in our hands functions as a prescriptive standard for our actions, while the list in the ex-lover’s hands does not. Because the lists are identical—as things—and still it is only one of them that has the prescriptivity that characterizes a norm, we can see that the type of thing something is (be it a grocery list, or a builder’s square, or whatever) is not sufficient for being a norm. Rather, prescriptivity is a type of relationship we share with things—and through these things, a relationship we share with others—given the role these things play in the activities we are engaged in. The grocery list in our hands is prescriptive because it was given to us by our friend in a time of need, and because we are engaged in the activities of caring for our friend and grocery shopping.

2 This is not to say that there are no norms in the situation of the ex-lover. The ex-lover is taking notes, and with this activity goes the norm of accuracy—that is, the list in the ex-lover’s hands must match the objects in our basket. Yet while the ex-lover’s list is guided by the norm of accuracy, the list itself is not prescriptive.

3 Where “thing” can include objects, practices, etc.

4 “Others” may include a friend, a superior, an institution, the inchoate “author” of custom and tradition, and even ourselves.
In other words, norms are events more than they are things. Laws, builder’s squares, grocery lists, and all the other examples of a norm are simply the things that commonly play prescriptive roles in our lives. The philosophical use of the term “norm” does not merely designate things that can be standards, but is meant to point out the unique role standards have when they are prescriptive for us. When, given the activity we are engaged in and our relations to other people, they have a claim on us; when they command, obligate, order, guide, or recommend (Korsgaard 8).

There are two other important distinctions amongst norms that the example of the builder’s square can obscure. The first distinction concerns the difference between concrete and abstract norms. Take, for example, the builder’s square. It is a concrete norm—it is a tangible object. When a cabinetmaker uses the square to make sure the boards are meeting at right angles, for example, she is using the concrete norm of the builder’s square to realize another, abstract norm: that of squareness. This latter norm is never fully realized, but functions as a regulative ideal in the production of builder’s squares and in the practices of cabinetmaking, house framing, etc. As such, it remains rather aloof, abstract. Simply put, concrete norms are tangible things, while abstract norms—like principles, concepts, or ideals—are non-concrete things.5

The second distinction that the example of the builder’s square easily obscures is the question of when to apply a given norm. The builder’s square, for instance, can tell us when something is square, but it cannot tell us when to use it. Hence, if we focus only on technical norms like a builder’s square, we can easily miss the need for ethical norms that set the standard for timely application of the technical norms—for instance, the abstract norms.

5 Seeing that “norms” can be both concrete and abstract we should resist the impulse to think that speaking of norms restricts us to abstract principles with universal and strict application—norms like Kant’s strict duties. Norms of this Kantian variety are certainly norms, but they do not exhaust the sense of the word.
norm of the local builder's code sets the standard for when the abstract norm of squareness should apply in the framing of a house, and, in turn, prescribes the timely use of the concrete norm of the builder's square.

When it comes to moral norms—norms that are prescriptive standards having to do with virtues, duties, or the various goods (i.e., ends) in life—their prescriptivity can have a quite profound influence upon our lives. Christine Korsgaard, in her book *The Sources of Normativity*, speaks of the influence of moral norms upon us in terms of their "practical and psychological effects" (12). One such effect is that moral norms act as a resource for self-evaluation. They allow us to evaluate our own moral character and actions, and when we fall short, they affect us by acting as a source of motivation for improvement. As Korsgaard says, "when you think an action is right, you think you ought to do it—and this consideration at least frequently provides you with a motivation for doing it ... Similarly, when you think that a characteristic is a virtue you might aspire to have it, or be ashamed that you don't" (11). Moral norms also affect us by providing standards with which we evaluate others. This effect alone has a tremendous impact upon how we interact with people, or even, as Korsgaard points out, 'whether another is a person for you at all' (ibid.). Furthermore, our moral norms play a huge role in the justification of punishments and rewards since many of us feel that good people should be rewarded and bad people punished (ibid.).

Given that moral norms affect us in such profound ways it is understandable that we take these norms as seriously as we do, and yet that we also find them to be a common source of uncertainty. And there are many ways to be uncertain about them. For one, we can be uncertain of what a norm would prescribe in an unfamiliar situation. This
uncertainty is a matter of application, and leads us to ask questions like (assuming the
core of courage) “How am I to be courageous?” or (assuming the prescriptivity of our
duties) “How can I fulfill my obligations?” A second type of uncertainty concerns the
mechanisms by which our norms influence our lives. How it is, we may ask, that our
norms affect us? This type of uncertainty is behind questions like whether the
prescriptive force of norms is an emotional or a rational affair, whether their prescriptive
force was established in us by nature or by custom, etc. A third way of being uncertain
about our norms—and the topic of this Thesis—concerns the justification of our norms. It
is the uncertainty we have when we wonder whether we ought to really follow our
norms—whether their claim on us is really a good thing after all. How is it, we can ask
ourselves, that we can be sure that our norms ought to really be normative? How might
we justify our norms in the face of such uncertainties? Questions like these are what
Korsgaard refers to as normative questions (10; 13).

Since these three types of uncertainty about norms (viz., uncertainty about
application, explanation, and justification) can be confused, it might be worthwhile to say
why, exactly, they are distinguishable—or, at least, why normative uncertainty is distinct
from the other two. Applicative uncertainty presupposes a norm’s claim on us, and
merely asks how we can live up the standard it sets. The normative question, on the other
hand, is a question that doubts the claim of the norm and asks whether the effects of that
claim are justified. The normative question asks not ‘how’, but ‘ought’ questions:
uncertain of the virtue of courage one asks, “Ought I be courageous?”; uncertain of one’s
duties one asks, “Ought I fulfill my obligations?” While it is true that a troubling or
difficult answer to the applicative question can spark a normative question—say, for
instance, on finding that the application of the norm of courage demands our death, we may be provoked to asking the normative question of whether we ought to really follow this norm—the normative question would still come after the applicative question and cannot be reduced to the applicative one.

Explicative and normative questions can be easily confused because they both deal with the psychological and practical effects of our norms, and why it is that norms motivate us. Further, as Korsgaard points out, “a theory of moral concepts which left ... [these] effects of moral ideas inexplicable could not hope to justify those effects” (14, italics added). Still, these two questions do not easily collapse into each other. Just think of the questions we have about the justification of norms. They arise from a first-person perspective: “Ought I follow this norms?” Explanative questions, on the other hand, arise just as well from a third-person perspective (12). Think, for instance, of a cultural anthropologist who is not part of the culture she is observing. She can ask explicative questions just as well as—in fact, probably better than—those who are claimed by the norms of the community. Since the nature of an adequate answer is prefigured by the question it attempts to answer, another way of putting the difference between explicative and normative questions is to say that answers to explanatory questions, since they can be asked from a third-person perspective, can be merely descriptive in nature, while answers to a normative question, if successful, must repair the prescriptive dimension of the norm that is in question. Hence, they must be more than descriptive—they must be prescriptive (ibid.).

Turning now to a consideration of the normative question, we can begin by remarking that it can arise in a number of situations, and for various reasons. First of all,
we may question the justification of our norms because they lack coherence. For instance, when we find that two of our norms prescribe different and contrary actions on our part, the tension between them can put both norms into question. Second, we can also be uncertain of our norms in situations where we find that our moral norms are different from (in other words, do not cohere with) the moral norms of another person, community, culture, or sub-culture. If we are open to the norms of the Other—that is, if we are willing for their norms to be true, to possibly have as much validity as our own—then their alterity from our own position shows us that our norms are not the only ones that might have justification. Suddenly, seeing the diversity of norms, we can no longer assume that our norms have justification simply in virtue of the fact that we hold them. The alterity of the other undermines the certainty we had in our norms, and we are called to provide a justification for our norms. Third, we may also question the justification of our norms if their source is less than reputable. For instance, when our norms depend upon the authority of someone, if we have good reason to question the intelligence or integrity of the person who gave them to us, the justification of these norms can easily be questioned. Thus, we can see that there are at least three different ways in which uncertainty about our norms can arise: the normative force of a norm—its claim on us as a prescriptive standard—can become questionable because of our doubts about the norm’s coherence and self-certainty, its consequences, or its perceived origin.

Whenever the normative question is asked there are three possible responses. We can abandon the norm that is under question, we can somehow justify the norm as it is, or we can modify the norm to make it justifiable. If we attempt either of the latter two responses, which both attempt to justify the norm in some form, we need to know what
the justification of a norm must accomplish. Must an answer to the normative question rely upon only that which is true regardless of whoever asked the question? Or might an answer to the normative question recognize the person who asked the question, and—presupposing the other contingent normative commitments of this particular agent—attempt to justify the doubted norm in light of these other normative beliefs?6

To attempt to answer the normative question in the first way would be, in Kant-speak, to justify a norm a priori, that is, to prove that a given norm’s prescriptivity has a necessary and universal authority. In order to do this the justification of the norm cannot rely upon anything empirical since experience can offer nothing but probabilities, and never necessities. This means that anything like the particular feelings,7 goals, or any other part of the perspective of the particular person asking the normative question cannot be used to support an a priori justification of a norm. In other words, if a norm is to be justified a priori, then it doesn’t matter in the slightest who it was that asked the normative question, or under what conditions it arose—the justification must be established regardless of these things because an a priori justification, stripped of all empirical matter, can only work with abstract norms distinguishable merely by their form (e.g., principles).

The second approach to justifying a norm is to rely upon these very things—the perspective of the questioner and the conditions that gave rise to the question. As such, it could be said to be an a posteriori justification that authorizes the normative force of the

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6 It’s interesting to note that Korsgaard herself seems to waiver on this matter. At times she speaks of the need to appeal to the personal identity of the agent (17 f.), but at other times she seems convinced that the limitations of this personal identity can be overcome by reflecting “far enough” (257 f.)—making personal identity superfluous to an answer to the normative question. G.A. Cohen’s critique of Korsgaard’s book highlights this tension between wishing to justify a norm even to those who are “radically disaffected” (hence, regardless of the background of the questioner) and justifying norms by appealing to the other normative beliefs the questioner holds (see Korsgaard 178-183).

7 Other than Kant’s rational ‘feeling’ of respect.
norm in question by appealing to empirical sources. There are, as Kant and others have pointed out, at least two problems with offering an *a posteriori* justification of a norm’s prescriptivity.

First of all, an empirical justification cannot guard against a morality of vice. As Onora O’Neill says in *Towards Justice and Virtue*, “the most evident difficulty they [that is “universalists”—e.g., Kant] see in the writings of historicizing particularists [those who would ground morality upon something empirical] is that by itself an appeal to local practices and traditions (however venerable, however passionately maintained) cannot but endorse evil practices and traditions, indeed vices” (19). If the only standards for normative evaluation and normative justification come form within the limits of experience—from our community’s customs and our culture’s tradition—then we will have no standard outside of custom and tradition upon which to evaluate these norms that we hold. If our culture both provides and justifies our norms, what standard can we have beyond the limits of our culture to be able to critique these norms? And with no critique, how can there be perception, let alone correction, of vice?

Take, for example, the attempt to justify one’s norms by appealing to the authority of the moral exemplars, or role models, in one’s community or cultural tradition. This might be one way in which one could attempt to give an empirical justification of one’s norms. Yet on this very type of empirical justification Kant comments, “worse service cannot be rendered morality than that an attempt be made to derive it from examples. For every example of morality presented to me must itself first be judged according to principles of morality in order to see whether it is fit to serve as an original example, i.e., as a model” (*Grounding* 408). The idea here is that by using moral
examples to define and justify our morality we cannot protect ourselves from being influenced by role models who exemplify vice. The only way to avoid immoral conduct is to have a standard that would reject it; but if our only standards are those found in the examples we have of what our culture and community considers to be “moral conduct,” then we have no ground to stand upon and evaluate these examples, to criticize them or even to detect vice when it is there. IF we use moral exemplars to define and justify our moral norms, we must either follow along with these exemplars, or rebel against their example; but either option will be unprincipled and, as such, will be non-moral at best, and immoral at worst.

The second problem with an attempt to offer an empirical justification of our moral norms is that such a justification cannot provide moral certainty. As Korsgaard points out, any normative answer that appeals to something contingent can always be doubted in the next moment (88 f.). It is only when we have normative certainty, when a norm is justified as being universally and necessarily normative, that normative doubt can no longer reasonably arise. We might think that something like certainty is a luxury that we cannot wait for before we are compelled to engage in practical affairs, yet there might be good reason to desire it, nevertheless, if it were possible.

While Korsgaard cautions against the lack of certainty to any empirical normative justification, Kant takes the lack of certainty to an empirical justification as a fatal objection to anyone who would claim that a norm justified in this way could be one of our moral norms. As the rationality of the common man will attest to, Kant says, morality
must be universal; every moral norm must hold as a law, rule, or principle for everyone, without any exception. As Kant says,

Everyone must admit that if a law is to be morally valid, i.e., is to be valid as a ground of obligation, then it must carry with it absolute necessity ... he must concede that the ground of obligation here must therefore be sought not ... in the circumstances of the world in which man is placed, but must be sought a priori solely in the concepts of pure reason; he must grant that every other precept which is founded on principles of mere experience—even a precept that may in certain respects be universal[ly consented to by concrete human beings]—insofar as it rests in the least on empirical grounds—perhaps only in its motive—can indeed be called a practical rule, but never a moral law. (Grounding 389)

If morality must be necessary and universal, it is impossible that experience could justify moral norms. As he says elsewhere, and Korsgaard echoes in her work, “Empirical principles are wholly unsuited to serve as the foundation for moral laws. For the universality with which such laws ought to hold ... is lost if the basis of these laws is taken from the particular constitution of human nature or from accidental circumstances in which such nature is placed” (442). This is because experience cannot ground any "laws," as such, since experience does not deal in necessity, as laws require (Kant, Critique B3). We may make generalizations based on experience, but these generalizations carry no necessity with them. So even if everyone in the world agreed that happiness was a good end to pursue, it would not follow that happiness would be a necessary norm. And since morality is composed of moral laws—norms that must hold universally—happiness cannot qualify as a moral principle. Hence, Kant says, “unless we want to deny the concept of morality all truth” the grounds for moral laws—both the definition of morality and the justification of moral norms—“must be sought a priori solely in the concept of pure reason” (Grounding 408; 389).

8 Metaphysics 216, 376; Critique of Practical Reason 111n; Grounding 389, 397.
We can see that Kant is insistent that moral norms must be justified a priori, but we have yet to see how moral norms can be justified a priori. To see this we need to first see how Kant thinks of moral norms. Any action, according to Kant, has a maxim. That is to say, actions are "always guided by a conception of what is being done," with this conception being "formulated as a rule or maxim" (Ellington ix). Yet while every action has a maxim this should not be taken to suggest that there is a distinct maxim for every action. Maxims are quite generalized principles of action. As O'Neill points out, "Maxims specify at a fairly general level some aspect of the way agents set about leading their lives: I may make it my maxim to build a mill, or to save for my old age, to embezzle funds, to avenge insults, to overcharge gullible customers, to pursue my self-interest, or not to make false promises" ("Autonomy" 7). Hence, a single maxim may apply to multiple concrete actions.

Kant certainly thinks of any norm, moral or otherwise, in terms of a maxim. Yet since we are defining norms not only as a guide for conduct, but also as a prescriptive guide, while a maxim may be necessary to a Kantian account of norms, it is not sufficient. This is because a maxim, while having the structure of a principle to guide our conduct, does not by that structure alone necessarily have a prescriptive claim on us. As O'Neill clarifies,

In speaking about agents' maxims or determinations of the will Kant is not making a claim about the efficient causes of action. The principle (law, rule, plan [or maxim]) that an agent adopts does not cause him or her to do anything (how could abstract entities such as principles (laws, rules, or plans) be efficient causes?) Rather the principle (law, rule, plan) that is adopted is the formal cause of action: it articulates what an agent chooses to do. (8)
Because maxims are not automatically prescriptive, they must be qualified as prescriptive in order to become a norm for us. A normative maxim must, as Kant would put it, be an imperative.

For Kant, there are two ways a maxim can be an imperative, and so be a norm: a maxim can have a *hypothetical* imperative, or it can have a *categorical* imperative. If the maxim of an action "would be good merely as a means to something else" then its imperative is merely hypothetical (Grounding 414). It is hypothetically prescriptive because the justification of the prescriptive force of such maxims depends upon two things. First, the desirability of the end to which an action in accordance with that maxim will lead, and the dependability of that action’s ability to be a successful means for attaining that end. Hence, maxims with hypothetical imperatives can only amount to being empirical principles, and while they can certainly be norms—for instance, norms of prudence and norms of skill—they cannot be moral norms, since “moral norms” (as Kant defines them) must have an unconditional imperative.

“If,” on the other hand, the maxim of an “action is represented as good in itself ... then the imperative is categorical” (414). The prescriptivity of such maxims “cannot be based on any presupposition, as was the case with the hypothetical imperatives” (419). Instead, it is unconditioned, absolute, necessary, and—hence—*a priori*. Only maxims that have a categorical imperative does Kant describe as moral laws, or duties. But what is the source of their normative authority? How is it that moral laws have categorical imperatives, and are unconditionally normative?

Kant attempts to justify all of the moral laws with the authority of volition itself—that we cannot will an action at all without also acknowledging the authority of the moral
laws. As such, the justification of the normative force of the moral laws—maxims with a
categorical imperative—is found within ourselves, as rational agents. Kant offers a
version of this argument in the third section of his *Grounding*. It begins with pointing out,
“every being which cannot act in any way other than under the idea of freedom is for this
very reason free from a practical point of view” (448). What Kant is saying here is that
from a first-person perspective (from “a practical point of view” as he puts it), as agents
who act according to maxims that we formulate with our practical reason, we cannot help
but think that we are able to legislate our own maxims to ourselves—that is, provide our
own reasons for acting. From the first-person perspective freedom is presupposed in any
action.

The next step in the argument is to show that “a free will and a will subject to
moral laws are one and the same” (447). Both are connected because a free will is a
causal source, and “the concept of causality involves that of laws according to which
something that we call cause must entail something else—namely, the effects” (446). In
other words, since our will, as free, must be the cause of our actions, it must also work by
necessary laws—since this is entailed in any causal connection. “Therefore,” Kant
concludes, “freedom is certainly not lawless, even though it is not a property of a will in
accordance with the laws of nature” (ibid.). But what are these laws that must—as laws—
be immutable, yet are still not *natural* laws? Kant tells us that they are the moral laws that
spring from our practical reason itself. To summarize the argument: if, from a practical
point of view, we presuppose our own rationality and hence freedom, then we necessarily
find morality—and all its principles and laws—to follow “by merely analyzing the
concept of freedom” (447).
Since the authority of a moral norm derives from its being a moral law, or a "duty," it is essential that if we are going to justify a particular moral norm—like the duty of not lying, or the duty of helping others—that we be able to determine which maxims are in fact duties. But how can we tell which maxims are duties—that is, which maxims have a categorical imperative, and are therefore moral law? Kant says that while a hypothetical imperative cannot be determined until its conditions—the desired end, and practical means to that end—are given, he says that if he thinks of a categorical imperative he, 

know[s] immediately what it contains. For since, besides the law, the imperative contains only the necessity that the maxim should accord with this law, while the law contains no condition to restrict it, there remains nothing but the universality of a law as such with which the maxim of the action should conform. This conformity alone is properly what is represented as necessary by the imperative. Hence there is only one categorical imperative and it is this: Act only according to that maxim whereby you can at the same time will that it should become a universal law. (420-421)

In other words, the form of a universalizable law is the mark of any categorical imperative. Kant thinks that this form can provide us with a template with which to determine if a given maxim is also a duty, and he is hopeful that "all imperatives of duty can be derived from this one imperative [i.e., universalizability] as their principle" (421).

For example, consider a "man in need [who] finds himself forced to borrow money. He knows well that he won't be able to repay it, but he sees also that we will not get any loan unless he firmly promises to repay it within a fixed time" (422). Kant says that if this man decides to take the loan, the maxim of his action could “be expressed as follows: when I believe myself to be in need of money, I will borrow money and promise to pay it back, although I know that I can never do so” (ibid.). If we submit this maxim to
the categorical imperative test, what do we find? Kant answers, "the universality of a law which says that anyone believing himself in difficulty could promise whatever he pleases with the intention of not keeping it would make promising itself and the end to be attained thereby quite impossible, inasmuch as no one would believe what was promised him but would merely laugh at all such utterances as being vain pretenses" (ibid.). In short, such a maxim fails the categorical imperative test because, when it is universalized, it contradicts itself. A maxim to make a lying promise fails the test, and Kant concludes that this demonstrates, a priori, that the maxim to not make a false promise is a duty (423-431).

Yet the various duties Kant derives from his categorical imperative test seem to be insufficient for an adequate morality. Among the various duties Kant derives from his categorical imperative test, he distinguishes between narrow and wide duties. Narrow duties are always negative—they proscribe certain maxims. The duty to not make a lying promise to others is an example of a narrow duty. Wide duties, on the other hand, prescribe positive conduct. They do not simply rule out maxims but prescribe some things that we must do. For example, the duty we have to ourselves to perfect our natural talents is a wide duty (423). Another wide duty we have is to help others when they are in need (ibid.). Kant recognizes that these duties admit of various means of being fulfilled (Metaphysics 390). Duties, after all, are maxims and, as such, are too abstract to prescribe concrete action. So having a duty to benefit others cannot, by itself, tell us how, exactly, to go about fulfilling it. Despite this latitude in how such duties are fulfilled, Kant seems to think that fulfilling our wide duties takes nothing more than fortitude: the strength of

9 "Prescribe" not in the sense of simply having a normative force, which equally applies to proscriptive and prescriptive duties, but "prescribe" in the sense of providing positive guidance in what one should do, not just what one should not do.
resolve to withstand our inclinations (cf. 380 and 390). Yet, as J.T. Tiles says, "One might wonder whether doing well or badly in response to the claims of imperfect [i.e., wide] duties depended on more ... Does it not require judgment?" (188). If prudence is necessary for the fulfillment of our wide duties, as indeed it seems to be, then the norms of our wide duties—assuming Kant's own account of morality—are insufficient for successfully determining moral conduct. Kant needs to augment his morality of wide duties with norms of prudence.

Another problem with Kant's categorical imperative test is that it is rather difficult to understand how Kant could derive from this test any of his prescriptive, or wide, duties. When we look at how the principle of the categorical imperative is put—"Act only according to that maxim whereby you can at the same time will that it should become a universal law" (Grounding 421, emphasis added)—we see that the categorical imperative test can only reject certain maxims, namely the ones that cannot be rationally universalized. It cannot recommend maxims, which is to say that of all the various maxims that do pass the test, it cannot specifically recommend any one of them, nor recommend one over another. Perhaps Kant thought that the opposite of any maxim that failed the test would be a prescriptive duty. For instance, if telling a lie is not morally permitted, then telling the truth must be morally required. This might work in a bivalent world, but we can see that not telling lies does not mean one must tell the truth. There is much one can do and not do, much that one can say and not say, that does not count as

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10 Kant introduces a number of other principles that mark off categorical imperatives—such as the formula of the law of nature (421), the formula of the end in itself (429), and the formula of the kingdom of ends (433). He says that all of these formulas are equivalent, and also equivalent with the formula of the universal law—and yet they too are negative, restrictive rather than prescriptive.
lying, but is not telling the truth either.\textsuperscript{11} If a friend, pursued by a person with murderous intent, takes shelter in our home, when the would-be murderer comes to my door and demands to know if my friend is inside Kant says that we cannot tell him a lie ("Supposed" 429). But this does not mean that I cannot restrain the would-be murderer, or that I cannot call the authorities, or simply refuse to answer.\textsuperscript{12} Hence, not being permitted to tell a lie does not entail that I must speak the truth. It remains puzzling how Kant thought that we could get prescriptive duties from the categorical imperative test.

Yet there is also a problem with Kant's claim to even be able to give prescriptive duties \textit{a priori}. Kant's argument for the necessity for moral laws—moral principles that are absolute, necessary, and universal—depends upon his claim that a free will is necessarily subject to these laws; that, in other words, anyone who sees herself as rational must also acknowledge moral principles that must, as necessary principles, hold \textit{a priori}. David Copp points out in \textit{Morality, Normativity, and Society} that this argument rests upon an equivocation on the word "necessary." As Copp says,

Kant's premise is that the existence of causal relations implies that there are laws that describe those relations as relations that have to be as they are by 'necessity.' Hence, he argues, since the decisions of a free will cause its actions, and since a free will is not bound by ordinary causal laws [viz., the laws of nature], there must be laws of some other, special kind that describe the causal relations between its decisions and its actions. It does not follow, however, that these laws describe how the decisions ought to be related to these actions by moral 'necessity.' \textit{Kant's argument depends on an assimilation of causal necessity with the moral necessities or requirements that he hopes to show a free will is bound to respect.} (68 f. italics added)

\textsuperscript{11} I owe this insight to Jeremy Henkel—see his (unpublished) essay "What the Categorical Imperative Cannot Do."

\textsuperscript{12} Even Kant seems to have seen this in regards to lying or telling the truth—he says that, \textit{if} one must speak, then telling the truth is necessary (428). But one must tell the truth only \textit{if} one must speak—and there is nothing Kant says that indicates that one \textit{must} speak.
If Copp’s assessment is correct, then Kant did not successfully show that any rational agent must agree, just by being a rational agent, that certain moral principles are necessary and universally binding. In short, regardless of any shortcomings of the categorical imperative test itself, Kant’s argument for the possibility of the categorical imperative test—or any necessary and universal principles—seems to be unsupported. If Copp’s assessment is not correct, we can still conclude that Kant’s attempt to justify moral norms *a priori* gives us only a handful of restrictive or proscriptive norms, and not a single positive, prescriptive norm. In the face of these shortcomings to continue on the Kantian quest to provide an *a priori* grounding of moral norms is to exemplify what Friedrich Nietzsche calls a “metaphysician’s ambition”: “to hold a hopeless position … and ultimately prefer even a handful of [supposed] ‘certainty’ to a whole carload of beautiful possibilities” (§10).

Some might think that, in abandoning an *a priori* justification of our moral norms we must also abandon moral principles, but this is to think of all moral principles as necessarily universal and absolute. In *Towards Justice and Virtue* O’Neill says that principles are simply one of the means we have for abstracting in our ethical deliberations. Abstraction, defined as “bracketing, but not … denying, predicates that are true of the matter under discussion[,] … is theoretically and practically unavoidable, and often ethically important. All uses of language must be more or less abstract; so must all reasoning” (40). One of the things that she is getting at is that without some notion of patterns or generalizations we cannot reason about how to act. Hence, she seems entitled to say, “even the most contextual ethical reasoning is abstract in this sense” (ibid.).
While not demanding that we abandon all types of moral principles, the various problems with Kant’s approach should recommend that we recognize that moral principles can have only a “hypothetically necessary” imperative. Even if a principle’s imperative holds necessarily at times, we should not conclude from this that their imperatives hold with a categorical necessity. Kant’s principle “do not make a lying promise when taking a loan” can serve to illustrate this difference between hypothetically and categorically necessary imperatives. Given the practice of money-lending, the normative principle to not lie makes perfect sense, since lying—if many people were to engage in it—would undermine the practice and institutions of money-lending. We could even say that, within this practice, not lying is necessary. But the maxim, or principle, to not lie seems to be permissible in other practices, like the practice of telling a story, of acting, of retail service, of comforting a friend, even—perhaps—lying to a dying relative for the sake of her peace of mind.\(^\text{13}\) Hence, the necessity of not lying seems to be contingent upon the type of practice we are involved in. Kant hit upon one of the practices that requires that we treat the principle of not lying as a necessary presupposition, but he made the error of generalizing the necessity of this principle beyond the domain of the practice of money-lending.\(^\text{14}\)

Assuming that we cannot give an absolute, necessary, and universal grounding to our norms, we must build a justification out of the material we have from our social and historical experiences. While an a priori justification depended upon nothing, and so the

\(^\text{13}\) Certainly some of these practices, such as storytelling, make it difficult to say that those engaged in them are lying. Does the storyteller claim to be speaking the truth? Are her utterances assertions (that is, statements that claim to be speaking the truth), or are they a different kind of utterance altogether?

\(^\text{14}\) Kant also spoke of the principles of mathematics and of logic as being universally and absolutely necessary. But we could respond and say that, while we are engaged in the practices associated with mathematics and logic and working under the assumptions entailed in the practices, these principles are certainly necessary; and yet, all the same, that necessity is contingent upon our engaging in these practices.
details of how the normative question arose and who was asking it did not matter to its justification, if we no longer see an a priori justification to be a possibility, we can no longer reach such an independent answer to the normative question. Instead, an answer to the normative question becomes possible only if, in responding to the question concerning one of an agent's norms, we presuppose the other normative beliefs that the questioner holds that are not presently under question. Because the justification offered in this manner does not promise the certainty that a universal and necessary grounding provides, but instead puts the justification of the norm in question upon one's assumption in the justification of other norms, there is a threat here of an infinite regress. As a result, Korsgaard points out, an empirical justification of a norm seems incapable of disposing of the endless threat that an agent may be uncertain about an empirical justification of her norm in the next moment (88 f.).

To be sure, without an a priori justification, certainty about the justification of our norms is no longer possible—and, yes, uncertainty about any moral norm that is justified empirically will always loom on the horizon. But it is important to distinguish between two types of normative skepticism: there is "uncertainty" and then there is "doubt." Uncertainty can arise for no reason other than fancy, and it can be asked from the third-person perspective just as easily as from the first-person. When we are uncertain about a moral norm we can act in the same way as we did before our uncertainty arose. It is this type of skepticism that David Hume felt towards causality. He was uncertain of causality on a theoretical level, but when it came to living his life, or thinking about ethics, he assumed its validity on a practical level. Doubt, on the other hand, is skepticism

15 The same might be said about Descartes's skepticism toward the empirical world: he was uncertain of it, yet he continued for the duration of his phase of radical doubt to live his life as an embodied being, presupposing the truth of the empirical world on a practical level.
that occurs on the practical level. It occurs only when uncertainty arises in such a way as to give us pause in our lives—to makes us hesitate in our conduct.

Seeing the difference between uncertainty and doubt we can distinguish between two types of normative questions—those normative questions asked from mere uncertainty, and those asked from doubt. Since uncertainty can arise for no good reason and can be asked regardless of the questioner’s perspective, answering this type of normative question can get by without presupposing anything about the questioner. Yet we are simply incapable of providing this type of normative answer.

A normative question asked from a place of doubt, however, arises for a specific reason, and from a first-person, practical perspective. Since this type of normative question is asked in the first-person, the normative answer must, as Korsgaard says, address the first-person—“satisfy[ing] us when we ourselves ask the normative question” (17). An adequate answer to this type of normative question must convince the questioner in the first-person, and overcome her doubt about the justification of the norm. To do this the answer must first locate the source of the doubt, since it is only by resolving the source of the doubt that an answer to such a normative question can hope to sustain a questioner’s commitment to the norm. But in resolving her doubt an answer can rely upon her other normative beliefs that are not presently in doubt. It is as if each of us has a web of normative beliefs, and the normative questions that arises out of genuine doubt concerns only a small number of the strands of that web. This allows us to repair the section that is in doubt while being supported by the other strands of the web.

Since an answer to a normative question asked out of doubt relies upon the normative beliefs of the questioner that are not presently in doubt it cannot provide moral
certainty. But it is, at least, possible. And this makes it superior to the unattainable certainty we would secure by providing an answer to a normative question asked out of simply uncertainty, and supplied on a priori grounds. So the charge that any empirical justification cannot avoid uncertainty should not bother us. As for the threat of an infinite regress, it can hold real potency on the theoretical level of uncertainty, but it holds no force on the practical level. In living we simply cannot afford to doubt our norms without end; besides, in our daily lives we do not ever have *cause*—a reason or situation—to doubt *all* of our norms at the same time. So a partial justification is sufficient to halt the regress at the present time.

There is another difficulty, besides uncertainty, that concerns any answer to a normative question asked out of doubt. As Kant and O’Neill pointed out earlier, one of the significant dangers with any empirical justification is the moral blindness it can produce. Justifying one’s norms by appealing to the authority of one’s culture and tradition tends to make one blind to the vicious norms that are part of the morality of our cultures and traditions. Since the answer to a normative question asked out of doubt relies upon the other normative beliefs that the questioner happens to hold—usually due to her upbringing in her culture and tradition—the justification of that answer depends in part upon the authority of that culture and tradition. To counter the possible blindness that this may produce, what we need in building an adequate account of the empirical justification of our norms is to acknowledge the social and historical dimension to any normative answer, and also be able to be critical of our normative prejudices. We’ve seen that moral certainty is beyond us, but we should take seriously O’Neill’s and Kant’s concern that a morality built upon tradition and culture—that is, empirical principles generated out of
the narrative of a society and history, rather than pure principles grounded in pure, a-
historical reason—might not be able to avoid prescribing pernicious behavior. How can a
culture critique itself? How can critical thinking arise within the limits of culture? These
are the questions to which any adequate account of an empirical justification of moral
norms must respond.

But before we can even address these issues, we must first provide an alternative
to the Kantian approach. Two philosophers who fit this description are Aristotle and
Confucius. But more than just being alternatives to the Kantian approach to answering
normative questions, Aristotle and Confucius are unique in what they offer as an
alternative. Both, as we will see, take moral role models, not principles, as their most
basic norm. And it is the role that models play in their ethics that, I think, allows them to
avoid the pitfalls associated with empirical justifications of moral norms.
While neither Aristotle nor Confucius spoke of "the normative question" with those exact words, this does not mean that they did not each recognize the possibility that a person can come to doubt the justification of her norms, or that they failed to offer their own respective responses to such doubts. That said we need a method for identifying the normative question within the texts of Aristotle and Confucius.\footnote{Speaking of the texts of Aristotle brings to mind a clear list. Yet with Confucius, because he is less of an "author" in the sense we use to think of Aristotle—a concrete, historical figure who literally penned his or her texts—and more similar to a tradition (see Hall and Ames, 24; cf. 307), speaking of the texts of Confucius is rather open. Nor would we want to overcome this difference in "authorship" between Aristotle and Confucius, and simply restrict ourselves to the Analects. Because the Analects itself is a composition, written over generations, and without a sharp division between what was recorded as Confucius's words within ten years as opposed to what was recorded within a hundred years, restricting ourselves to the Analects would simply be arbitrary. This is why I will feel at liberty to cite the Liji—with its Daxue and Zhongyong—along with the Analects as being within the domain of "texts of Confucius."} One way to do this is by first looking for possible situations where an Aristotelian or Confucian agent could be said to have grounds for doubting the justification of one, or many, of the norms that claim her.\footnote{"Doubt" here refers to the first-person, practical uncertainty that concerns the justification of norms, not the uncertainty about a norm's application or the explanation of its normative force.} To identify the occurrence of such doubts we do not need to see the word "doubt" or "uncertainty" in the text, only a situation that could arguably—that is, from a first-person perspective of such an agent—provoke that agent's doubt about some norm's justification. In other words, we need to identify situations that inhibit an agent from following one of her norms. If we find situations like these, then we have found the grounds for asking what we are calling "the normative question." Once we have these instances in hand, we also have a way of determining how each thinker would answer the normative question. All we have to do is identify how each philosopher responds to an
agent's doubts when she is in one of these situations, and we will have a sense of how the philosopher would answer the normative question.

Section One: How Aristotle Answers the Normative Question

In Aristotle's *Nicomachean Ethics* the normative question finds purchase regarding two of his most precious and fundamental moral norms—that of the good life, and the habits of conduct that are said to realize that good life.

The first, the norm of the good life, is referred to in Greek as *eudaimonia*. While *eudaimonia* is often translated into English as "happiness" it is much more than a state of mind, such as a feeling of elation or pleasure that the English tends to convey. It is a quality of one's life as a whole; it is, as everyone agrees—or so Aristotle tells us—a life lived well (*Nicomachean Ethics* 1095a19-20).¹⁸ *Eudaimonia* is also described by Aristotle's contemporaries as a life that is good in itself (1097a34-1097b2)—that while we may do many of our daily activities for some further end, for some further goal or good, it is *eudaimonia* alone which we seek and live for no further end. It is good and desirable just by being *eudaimonia*. In other words, *eudaimonia* is the highest end in the hierarchy of ends. Because ends are also normative—acting as standards to guide our conduct—this also means that *eudaimonia*, as the highest end, is also the highest norm, the highest good (see 1097a27-1097b2). In other words, while many ends or goods, such as a good diet, will regulate certain facets of our life (with a good diet, our activities in the kitchen, garden, and grocery store), since *eudaimonia* is the highest end and good it regulates our whole life. This is why Aristotle can say that *eudaimonia* is for us, in our life, what a target is for an archer in archery: the mark towards which all our efforts are

¹⁸ Unless it is indicated otherwise, all translations of the *Nicomachean Ethics* are provided by T. Irwin.
bent and the measure of our excellence (1094a24-25). These, at least, are the characteristics of *eudaimonia* that Aristotle’s contemporaries agree on.

Yet, for all this agreement, Aristotle sees it as really nothing more than a verbal agreement on the use of the word “*eudaimonia*” to designate whatever actually counts as a life lived will, the highest end, and all that. What people disagree about is what the word means—what a *eudaimôn* life entails (1095a17-20). According to Aristotle, people of refinement and culture (*hoi charientes*)—politicians, philosophers (i.e., the wise), heroes, and other icons of cultural refinement—give an account of *eudaimonia* that is quite different from the one offered by craftspeople, merchants, and the other people who are uncultured and make up the body of the crowd of men—or ‘the many’ (*hoi polloi*) as he calls them.

The many think that *eudaimonia* is “some plain and obvious thing, like pleasure, wealth, or honor” (1095a22)—with most of them, and those who are the most vulgar, conceiving of *eudaimonia* as simply a life of pleasure and gratification (1095b16-19). Of course what is pleasant or gratifying is no simple matter since what is pleasant or gratifying depends to a large degree upon our circumstances. So if *eudaimonia* is defined as a life of pleasure and gratification, such an account will give rise to conflicting accounts of *eudaimonia* because its characterization will necessarily vary along with our fortunes. As a result, Aristotle says, we would find that even the same (common) man would be lead to identify *eudaimonia* with different things at different times— with health when he was ill, with wealth when he is poor (1095a23-24).

There is also disagreement between those who are cultured. Some politicians, who are ostensibly cultured, nevertheless agree with the many who think that *eudaimonia*
is a life of honor. They view the political life as a good life, and since honor "is more or less the end in the political life," and *eudaimonia* is conceived of as the final end, *eudaimonia* must be a life of honor (1095b19-23). But some among those who are cultured, namely the wise, think that *eudaimonia* is 'something grand and beyond the comprehension of the crowd' (1095a20-26). The philosopher Plato, for instance, (who is clearly a cultured person in Aristotle's mind), "thought that apart from these many goods [that the many think constitute *eudaimonia*] there is another which is good in itself and causes the goodness of all these as well" (1095a26-28). Still other cultured people—presumably sharing some of Aristotle's own sentiments (see Book X of the *Nicomachean Ethics*)—conceive of *eudaimonia* as a life of study (1095b16).

There are two different ways in which these various accounts of *eudaimonia* conflict. One way they conflict is a product of their content—defining *eudaimonia* in ways that contradict other accounts in terms of their content. For instance, the virtue of bravery (which is often portrayed as part of a life of virtue or honor), and a life of great wealth both work against living a life of pleasure. Both put one in danger of a sword—of either an enemy or a thief (cf. 1094b16-18). Hence, to claim that *eudaimonia* entails bravery, or honor, or great wealth is to contradict those who would identify *eudaimonia* with a life of gratification. Likewise, identifying *eudaimonia* with the virtue of justice, or a life study, tends to forfeit one's chances for wealth—and so these accounts of *eudaimonia* contradict those who think that *eudaimonia* is a life of wealth. Second these diverse accounts of *eudaimonia* conflict because each offers an account of a life that is said to be sufficient for the final end. Since there can conceivably only be one final end,
they are necessarily excluding and contradicting the others simply by being different—regardless of any contradiction that might arise in terms of their content.

When disagreements arise between whichever account one may hold and the various accounts of *eudaimonia* held by other people, one might wish to resolve these conflicts by simply brushing the other accounts aside. Yet there is something authoritative, or “reputable” (*endoxa*)—as Aristotle puts it in his *Topics*—to the opinions of the cultured and wise, and the opinions of the many (100b20). There is something ‘going for them’ (ibid.). After all, when considering the opinions of the many or the cultured “it is reasonable for each group to be not entirely in error” (*Nicomachean Ethics* 1153b27). The opinions of the many have authority because, as Hesiod says (and Aristotle quotes him), “no rumor is altogether lost which many people spread” (1153b27; *Works and Days* line 763)—in other words, a widespread opinion is probably not altogether untrue. As for the opinions of those who are cultured and wise—well, as long as these people are really wise, their opinions seem to be obviously worth listening to. In any case, what the many or the cultured and wise believe on a given topic, including on the nature of *eudaimonia*, cannot be lightly brushed aside.

That said, the conflicts between the accounts of *eudaimonia* creates a tension in our understanding of this norm, giving us good cause to doubt the certainty of our own account, whichever account it may be, and seems to undermine our own confidence in the justification of the effects that follow from our account of *eudaimonia*. In short, the tension between these diverse opinions of *eudaimonia*, if left unresolved, establishes a

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19 For example, despite Aristotle’s poor assessment of a life of mere gratification as “a life for grazing animals,” he still says that those who think that such a life is eudaimonia “have some argument in their defense, since many in positions of power feel the same way as Sardanapallus,” who choose such a life (1095b20-23). This seems to be an example of what it is like to have “something going” for one’s argument.
foothold for the normative question to arise in the ethical system of Aristotle. This is the
first way in which the normative question can appear in Aristotle’s ethics.

The normative question also arises in regards to the normative habits that our
contextualized deliberations have determined to be virtuous—in other words, our
understanding of the virtues. According to Aristotle’s full characterization of *eudaimonia*
it is composed in part by one’s fortune with external goods, like wealth or health, and in
part by one’s *ethikê arête* ("virtues of character"), like temperance, informed pride,
courage, generosity with one’s wealth, etc.

These virtues are not intentions, merely good will; they are habits or dispositions
to act and feel “at the right times, about the right things, toward the right people, for the
right end, and in the right way [or degree]” (1106b21-23; 1109a27-29). Understandably,
what ‘the right time, right thing, etc.’ happens to be in a given situation is something
quite difficult to determine. Situations are quite different from one to the next, having
their own “particulars” or details; and these differences affect our determinations of
virtuous conduct. To help us in our determination of the right time, right things, right
people, right end, and right way, Aristotle defines the virtues as dispositions to act and
feel in an intermediate way: in a way we could map as located between two vices—the
vice of going too far, and the vice of doing or feeling too little. While this schema of
intermediacy—the so-called Golden Mean—is helpful, it is still incapable of a *complete*,
or even a very rich, determination of the right way to act and feel because it is a *general*
schema (1109b13-27). The Golden Mean—or any other law, principle, or schema we
may have in hand before we find ourselves within the concrete situation—can guide us,
and helpfully rule out certain options, but cannot, by itself, adequately determine how we

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should act (1138b18; cf. 1137b20-31, 1094b15-23). Virtuous conduct requires more than schemata, principles, or rules. We must step beyond their limitations as formulae if we are going to determine virtuous conduct to a sufficient degree for action with an eye to the context. We take this step, Aristotle says, by using our practical intelligence (phronesis).

One of the necessary components of practical intelligence is the ability to deliberate (bouleusis). In the third book of the Nicomachean Ethics we receive a general account of the nature of deliberation. Deliberation, Aristotle tells us, is a type of reflective inquiry (1112b20-25), which starts with a desired end and works backwards from that end to one’s present situation, looking all the while for ‘the ways and means of achieving that end’—that is, looking for a sequence of actions that could lead one from the present situation to the desired end (1112b16). Deliberation is successfully concluded when we have found (a) the only permissible action-sequence that will produce the end, or (b) hit upon the best and most efficacious of the possible action-sequences that will produce the end (ibid.). The construction of these action-sequences relies upon our ability to perceive the salient features of the particular situation (what Aristotle calls the “particulars”), as well as our understanding of the patterns of efficacious conduct (what he calls “universals” or “generalizations”). When both of these are put together in practical deliberation, they allow us to get from the particulars of the situation to a determination the most efficacious and virtuous activity that will strike the intermediate place, and so will be done or felt at the right time, about the right things, etc. (1141b9-24; 1142a12-23; cf. 1112b9).
There are two common causes for feeling uncertain about our ability to deliberate on practical matters. The first comes from the fact that there are many ways to err in practical deliberation. For instance, while the “universals” involved in practical deliberation may be taught, the eye of *phronesis*—the eye that is able to pick up on the “particulars” that are important in a given situation—cannot be taught by another person, but must be learned, personally, through experience (1142a13-22). Because the grasp of the particulars must be reached by personal experience we may begin to wonder how we can ever be confident that we have experience adequate to properly deliberate in any given situation. Yet even with adequate experience we may still err in practical deliberation simply by either mistaking the particulars in the situation (e.g., seeing the water before us as hard water when it is *de-ionized* water), or by having learned a false universal (e.g., that all sorts of hard water are bad for the health) (1142a23-24).

The second cause for doubt is that, since we must actively determine virtuous activity by means of our own practical intelligence, we are burdened with a direct and personal responsibility for our determinations. When we face matters of great weight the responsibility we feel for something of such importance can compel us to distrust our own ability to discern the right answer, and solicit others to aid us in our practical deliberations (1112b10-11, see Ross’s translation).

In either case—because of either the possibility of error, or the burden of responsibility—this doubt we feel toward our ability to deliberate serves to undermine our confidence in the normative conduct we have determined, by means of our practical deliberations, to be the right way of acting in the given situation. This doubt, initially at least, only gives rise to questions of application. Deliberation is, after all, the process of
applying general norms to concrete situations, yet if our application gives us cause to doubt, then that doubt can easily lead to a normative question. In other words, doubting whether the activity we have determined to do is correct leads us to doubt whether it really ought to be carried out—whether it is justifiable that it have a claim on us. This is how the possibility of error and the burden of responsibility in practical deliberation and matters of application can lead us to ask the normative question about the norms of contextualized virtuous activity. This, then, is the second way in which the normative question can arise in Aristotle's ethics. Seeing the ways in which normative doubts and questions arise in Aristotle's ethics we can understand how he answers these questions if we can determine how he responds to these doubts.

The doubt one might feel regarding Aristotle’s account of eudaimonia arises because there are various and conflicting accounts of its nature. To assuage this doubt, and so overcome the normative question that that doubt establishes, Aristotle must somehow resolve the conflict between these various accounts. Aristotle aims to do this by following his method for conducting inquiry in ethical matters.20

All inquiry has a starting point, or archê (“origin”): the premised opinions from which an inquiry begins. There are two types of archai, one of which is the type of archai known unconditionally, and “convincing on the strength not of anything else but

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20 This method, which Aristotle exemplifies throughout his ethical texts, can be thought of as a form of deliberation (bouleusis) (see Irwin 399, and Wiggins). The difference between this type of deliberation and the deliberation we engage in for determining virtuous conduct in context is that it is concerned with issues of ethical theory, rather than immediate practice. So we could distinguish between these two types of deliberation by referring to the one concerned with determining virtuous conduct as “practical deliberation,” and the other one as “theoretical deliberation.” But calling deliberation with ethical theory “theoretical deliberation” should not lead us to think that it is impractical. After all, as Aristotle says, if an ethical theory has no influence on our lives it is utterly pointless (1104a26-30). The difference is simply that practical deliberation is immediately practical, concerned with concrete and immediate action, whereas theoretical deliberation is mediately practical, concerned with ethical theory which can, in turn, inform our practical deliberations.
of themselves" (Topics 100a31). The other type of archai is composed of those not known unconditionally, but known to us. That is to say, they are the reputable opinions (endoxa) of our community that are convincing not by their content alone, but because they are “reputable.” Opinions held by many people, or by cultured people are reputable, and it is the authority of the many and the cultured that lends these archai their strength, their reputability.

Inquiry into ethical matters, Aristotle says, must begin with the latter type of archai since the nature of the subject matter makes unconditionally known archai impossible. This is because “what is fine and what is just, the topics of inquiry in political science [and ethics, by implication], differ and vary so much that they seem to rest on convention only, not on nature. Goods … also vary in the same sort of way, since they cause harm to many people; for it has happened [for example] that some people have been destroyed because of their wealth, others because of their bravery” (Nicomachean Ethics 1094a15-19). Hence, in ethics “we argue from and about what holds good usually” (ibid. a22).

Because ethical inquiries must begin with merely reputable archai there will inevitably be disagreements. To cope with and resolve these tensions, Aristotle utilizes a particular method. This method begins, like Aristotle begins his account of eudaimonia in the Nicomachean Ethics, by first taking stock of the various reputable opinions that can be found on the given topic (1145b4-7). After taking stock of all the conflicts or puzzles between these various accounts, he then attempts to make them consistent—to harmonize

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21 In describing this method Aristotle speaks of dokein (“to appear”) as the beginning of an inquiry—a word that is cognate with doxa (“opinion”) (Irwin 387).
22 Although Aristotle is speaking about akrasia, or incontinence, in this passage, his remarks can be generalized to apply to all topics of ethical theory. And this generalization is supported by the fact that he uses this method when inquiring into eudaimonia and ethical virtue.
them. This method, as Richard Sorabji points out in his essay “Aristotle on the Role of Intellect in Virtue,” is one of induction. It begins with specific opinions on what is good in particular situations, which one then generalizes and harmonizes to produce general accounts of the virtues, and the good life as a whole. For instance, our father might tell us that we should have only three cups of wine at that night’s symposium. We can generalize this opinion and harmonize it with the other opinions we encounter about temperate behavior, and thereby reach an overall understanding of the virtue of temperance. Once we have a sense of the various virtues—temperance, courage, generosity, etc.—we can assemble and harmonize these virtues and come to understand how they fit into a general account of *eudaimonia* (Sorabji 214 ff.).

Of course, in the process of following this method some of the opinions we hold will quite easily harmonize with the other opinions simply because they are all claiming either roughly the same thing, or because they are each claiming things that are quite different from, and unrelated to, the other opinions. In either case, it is easy to include all of our opinions under a single account of the matter. But some opinions cannot be harmonized, and they must either be qualified in order to fit with the other opinions, or they must be rejected. When one is faced with a conflict of this kind, that demands one choose which opinion to qualify or reject, a standard for making such a choice is needed. Aristotle provides himself with such a standard at the very start (and as part of his own set of *archai*) by identifying which opinions are ‘the most important’ ones, and the ones he could not do without (cf. *Nicomachean Ethics* 1145b4-8). These opinions are the ones that will not be qualified, and will not be rejected; instead, the opinions that conflict with them will be qualified or rejected.
The product of this method is an account that retains the opinions one deems to be the most important, and is in harmony with as many of the original \textit{archai} as is possible. This method produces accounts that borrow strength from many of the original opinions that lead to them, making the final account, thereby, more true than any one of these opinions taken alone. And by producing an account in harmony with many different opinions, this method also reduces the potential for a clash between the considered account it produces and the opinions we will come across in the future; and since clash is a cause for doubt, it reduces the potential of such doubt. As for any of the opinions that are rejected from the final account, they are rejected for deliberate reasons; hence, even though some rejected opinions might clash with our final account, that clash will not cause us to doubt our account. In short, with this method Aristotle is able to assuage doubts about his account of \textit{eudaimonia} that are due to a conflict of opinions. Consequentially, this method is also his means of answering the normative question that arises because of this doubt.

In the process of formulating that final account we can see that the opinions that we select, as the ones we will not reject or modify, make a tremendous difference to the character of one’s final account. The opinions we consider to be most important guide our selection and modification of the other accounts, serving as criteria for the composition. The limits of our \textit{archai}—which are set, in part, by our selection of those opinions we consider to be the most important ones—set limits to our final account. But the \textit{archai} that we use do not simply delimit the final account, they also contribute to the content of that account. Hence, Aristotle does not seem to be exaggerating when he says that the \textit{archai} we begin with “have a great influence on what follows [after]; for the
archai seem to be more than half of the whole" (1098b6-7). Given the impact of our means of selecting the opinions we deem to be the most important, we can say that the authority of the final account seems to rest in a large degree upon the standard by which one pre-selects the opinions that are deemed to be the most important. In other words, because of the affect of one’s guiding opinions upon the final account, the justification of that final account—in this case, Aristotle’s definition of eudaimonia—depends upon the justification of the standard for the selection of these opinions.

One might respond to this request for justification, as John Kultgen does, by saying that Aristotle’s use of the opinions of his contemporaries does not require justification because he doesn’t use them to justify his account of eudaimonia (328 ff.). He is, the response continues, merely using his contemporaries’ opinions as a heuristic device—using their opinions to add incidental support to his own conclusions. As Aristotle says, “all the facts harmonize with a true account, whereas truth soon clashes with a false one” (1098b11-13); hence, if he can demonstrate the harmony of his account with those of his contemporaries, his view has all the more support in the eyes of his contemporaries (see 1098b14-1099b8). His account can stand without their support. Yet this response is compromised by the fact that the opinions of his contemporaries clearly do more than merely corroborate Aristotle’s account: they provide material for that account. Their role cannot be incidental, and so we are forced to the task of finding Aristotle’s justification for his selection criterion for those opinions he considers the most important.

Obviously the justification of Aristotle’s selection of opinions cannot simply be the result of those opinions being reputable since on many occasions he must decide
between opinions that, while reputable, still conflict with each other. To resolve these conflicts, and provide a standard for selection, Aristotle seems to rely upon the opinions of the people with whom he identifies: the free males, the aristocrats—those whom he, his sub-culture, and community consider to be cultured (hoi charientes). As Aristotle says, it is because of their culture and upbringing that cultured people have the right archai:

... the archê we should begin from is what is known to us [as reputable]. This is why we need to have been brought up in fine habits if we are to be adequate students of what is fine and just ... For the archê we begin from is the belief that something is true, and if this is apparent enough to us, we will not need the reason why it is true in addition; and if we have this good upbringing, we have the [proper] archê to begin from, or can easily acquire them. (1095b3-9, Irwin, modified with Ross’s translation)

Being cultured with a good upbringing is the privilege of aristocrats. And with it the aristocrat becomes culturally superior to the common lot, since this upbringing, with its habituation to good pleasures and learning the proper archai, allows him to “see what is true in each case”, and “what is fine and pleasant”—the makeup of the good life (1113a30). As a result we can view the aristocrat as “being a sort of standard and measure of what is fine and pleasant” (1113b25-1113b3).23

Since Aristotle appeals to the opinions of the cultured over the opinions of the many, we can infer that he views the former group of people as having some sort of authority. Put another way, because his account of eudaimonia is constructed out of the material and guidance of the opinions of these people, if his account of eudaimonia is to carry any weight, its justification depends upon the authority of the cultured people. Yet

23 That Aristotle is using the cultured person’s opinions as his standard for selecting the opinions he finds most important is also made obvious by the way he recurrently sides with the opinions of the cultured in opposition to the opinions of the many (see 1095a22, b16, b19; 1113a33, 1153b35, 1159a19, 1163b26, 1167b27, 1172a22, etc.).
what is the nature of their authority? Why are they cultured in a normatively positive sense—that is, with the ability to clearly see what is pleasant and fine, and what the good life entails?

The answer that immediately presents itself is that their status as a “cultured” person depends upon Aristotle’s community and sub-culture’s determination of whom they consider to be cultured, and what kind of upbringing they identify as good. So if someone has any authority because he or she is a cultured person, that authority must derive in some way from the sub-culture, and community, of aristocrats. This suggests that their authority is parasitic upon the structure of society and those who play the part of the aristocrat. This, however, is not the answer that Aristotle is said, by some, to give us. As John Kultgen puts it,

[Aristotle’s] basis for discriminating among these types [viz., hoi polloi and hoi charientes] lies in his conception of human nature. While the capacity for practical wisdom is innate in people qua human and hence universal, it is found at radically different levels in different individuals. ... Only an elite group of adult males, possible restricted to those of Greek extraction, have the capacity at the highest level. (330)

In other words, it seems that Aristotle thinks that people who are cultured have the proper archai not simply on account of their upbringing. Their upbringing may account for their ability to take pleasure in fine things, but there is something to their nature, something to their biology, that allows them to successfully become virtuous and refined by a good upbringing. The particular feature of their biology that disposes them to this end is their natural endowment of reason (logos), and hence24 practical intelligence (phronesis). It seems that Aristotle’s answer to the normative question concerning his account of eudaimonia comes down to a sort of normative biology.

24 Since logos, as bouleusis, is a part of phronesis.
We can see some very strong support for this reading of Aristotle, especially in passages of the *Politics* where he explains the power relationships between freemen and slaves, and men and women. As he says,

almost all things rule and are ruled according to nature. But the kind of rule differs—the freeman rules over the slave after another manner from that in which the man rules over the woman ... although the parts of the soul [logos included] are present in all of them, they are present in different degrees. For the slave has no deliberative faculty at all; the woman has, but it is without authority. (*Politics* 1260a10)

This passage suggests that the deficiency in the deliberative capacity of women, and the absence of such a capacity in slaves, is due to a part of their nature, their essence, and definition. Slaves are simply those people who are born without a deliberative capacity; and women, while having a deliberative capacity, are (perhaps Aristotle would say) easily overwhelmed by the passionate part of their soul, which makes all of their deliberative conclusions questionable.

Marguerite Deslauriers argues in her essay "Sex and Essence in Aristotle's *Metaphysics* and Biology" that Aristotle’s statements about the natural rational inferiority of women, such as the statement we have just quoted, are simply the expression of certain prejudices he uncritically adopted from his culture. Aristotle does not once offer an argument in their favor (Deslauriers 140). And what is more—and this is the real potency to her essay—these prejudices are inconsistent with Aristotle’s own natural philosophy, for which he does offer argument.

Her argument runs as follows. First off, *logos* is part of the definition of the human species—in Greek terms, *logos* is part of the definition of the *eidos* of the class *anthropos*. Because ‘contrarieties which are essential make a difference in species’ (*Metaphysics* 1058b1), by claiming that women are naturally deficient in *logos* implies
that women and men constitute different sub-species of the classification *anthropos*. Yet while Aristotle says that men and women are different, and in some sense contrary, he says that their difference is not essential, but incidental—they are not different in form, but in matter, that is, their body. And that such material difference is simply the result of the biological environment the human seed undergoes while in the womb. In other words, the same human seed becomes male or female merely by being acted on in a certain way, not by some pre-given essence or form internal to each human seed. Hence, the deliberative deficiency of women cannot be accounted from in terms of their essential nature. It is better explained in terms of their upbringing and social status. When Aristotle says that a woman’s deliberations lack authority, it is better that we take him to say that her lack of authority is not the result of her deliberative capacity, but a consequence of her social status. She is not in a position to enforce her deliberative conclusions upon her husband, or other freemen. This alternative reading, while certainly revisionist in a way, has strong support given (a) the inconsistency produced by a reading that thinks in terms of a normative biology, and (b) the social and dialogical nature of deliberation (*bouleusis*) (see Tiles, 206 f.).

If Aristotle had stayed consistent with his natural philosophy, he would not have been able to use his observations of women—or any other class of humans for that matter—to construct a normative biology. If he had stayed consistent, he would have seen that the authority of the *archai* of the cultured people could not depend on their biological endowment, but on something else—perhaps on cultural factors. And, as such, his account of *eudaimonia* constructed out of their opinions could not hope to claim objectivity on the basis of some group’s purported natural superiority in understanding
such things. This does not mean that we, who do see the inconsistency, must give up on the opinions of the cultured; but it does mean that we must justify the authority of these opinions in terms of something other than the rational nature of those who hold them. To do this we seem to be left with only cultural factors to consider—such things like upbringing and social standing. While we will return to consider what their authority could rest upon, for now let’s turn to the other normative question that arises in Aristotle’s ethics: the one that concerns the virtuous conduct that one’s practical deliberations determine.

The normative question arises here when we doubt our determinations, either because we know that mistakes can easily occur in practical deliberation, or because of the responsibility we feel and the importance of acting virtuously. In either case, our confidence in our ability to correctly deliberate is strained. To assuage this doubt, and so answer the normative question, Aristotle must provide us with some means of determining when our deliberations are correct.

Correct deliberation, or orthos logos25, is deliberation that reaches, Aristotle tells us, the right conclusion of what we can most immediately do on our way to our desired end. It also reaches that conclusion by means of the right process—a process that is “right” in terms of being a correct inference, and in terms of being a correct inference performed in a timely manner (Nicomachean Ethics 1142b17-27). Yet these two characteristics—the right conclusion and the right process—are not alone sufficient for an account of correct deliberation. There are people who excel at both of these things, and yet are thieves, murderers, and brigands. Professor Moriarty, of the Sherlock Holmes stories, is a great example of one who, with cool deliberation, was able to determine

25 The logos (or “reason”) that is concerned with ethical matters is expressed in bouleusis (deliberation).
excellent means for achieving his desired, yet vicious, ends (except, of course, when Sherlock was present to thwart Moriarty’s efforts). This gap between deliberative skill and moral excellence is why Aristotle takes pains to distinguish practical intelligence from mere cleverness (1144b22-27), where the former is characterized as not merely deliberating to the right conclusion by the right process, but also as beginning with the right end. Hence, for correct deliberation one must (a) have the right idea about *eudaimonia*,26 (b) have the experience to pick out the salient features, and (c) the cleverness to subsume them under the right patterns for arriving (in a timely fashion) at the most immediate action one can undertake as an expedient to living the good life. This gives us a sketch of what correct deliberation looks like, but how does it help us to be confident in knowing when our deliberations are correct?

The right process of inference, after all, is not something that can be set down before hand. Since practical deliberation deals with particulars, when it comes to concrete virtuous conduct we can only ever speak in terms of what is usually the case, but never what must be the case. Therefore, induction depends upon experience to give us the vision to pick up on the salient features of the situation and to recognize the tendencies of conditions and consequences—and that experience cannot be replaced by any number of schemas. But how, then, do we know what the right process of inference, and the right conclusion, look like? To put it a different way, how can we tell when we have the right experience?

It is at this point, and for the sake of illustrating correct deliberation, that Aristotle evokes the model of the *phronimos*—those people, contemporaries and cultural legacies, who exemplify deliberation that is linked to an adequate conception of the good life

26 Which is itself the product of theoretical deliberations.
People like Pericles, for instance (1140b8). Using the *phronimos* to model correct deliberation provides Aristotle with the means to articulate it without being forced to give a detailed schema (which would really be useless). But using the *phronimos* in this way also means that Aristotle is relying upon their authority to carry his determination of correct deliberation, and to validate his answer to the normative questions that arise when we doubt our deliberative determinations.

But where does the authority of the *phronimos* come from? One might wish to say that their authority derives from their exemplifying ethical excellence (*ēthikē arête*)—that the exemplification of the *full* array of ethical excellences not only serves as a distinguishing mark of the *phronimos*, it also serves as the source of their authority. Yet ethical excellence cannot perform either function because the *phronimos* are part of Aristotle’s definition of ethical excellence (see 1106b36-7a2). So to use ethical excellence to define the *phronimos* would be to beg the question. Perhaps the *phronimos* are their own justification, possessing their own normative authority.

Whatever the case may be, in looking over Aristotle’s manner of answering the normative questions we can see that his answers rely upon the authority of exemplary persons. In response to the normative question regarding his definition of the good life, he relies upon the *archai* of the cultured to contribute and justify his account of *eudaimonia*. In response to the normative question regarding the nature of correct deliberation and the determination of virtuous conduct, he relies upon the example of the *phronimos*.

But what is the source of the authority of the cultured and the *phronimos*? While Aristotle attempted to ground the authority of the cultured in his normative biology, it is
interesting that, with the collapse of that option, the authority of the cultured comes to depend upon the authority of the *phronimos*. What makes them cultured can no longer be their nature. It must be that they can perceive the good—that they have the right opinions about what makes up a good life. While these opinions will be the generalization of various concrete examples of virtuous conduct, what virtuous conduct will be in the concrete depends upon the determinations of our practical intelligence. And, as we’ve seen, that is something that is both defined and justified by the *phronimos*. Hence, if the *archai* of the cultured are justified, that justification comes from the example of the *phronimos*. The authority of the *phronimos* is the basis for all his answers to the normative question. Whether this is an acceptable way of answering normative questions—whether it can avoid the problem moral blindness, which O’Neill and Kant warned us any empirical justification of moral norms would produce—is another matter, and will depend upon the nature of the *phronimos*’s authority.

Section Two: How Confucius Answers the Normative Question

Regarding Confucius, especially as we encounter him within the *Analects* (*Lunyu* 諫語), we can see that the normative question can arise concerning two of his moral norms, namely *li* 禮 and *yi* 義. Both of these norms take their significance from their involvement in the project of articulating *dao* 道, so to understand how the normative question can be directed at them we must first have a little understanding of *dao*.

In the *Analects* *dao* is used in many different ways. We hear of the *dao* of an era (*Analects* 3.16), the *dao* of a state (5.2, 6.24), the *dao* of historical people (like the rulers Wen and Wu (19.22)), the *dao* of Confucius (4.15), the *dao* of ideal types of people (like
exemplary persons (*junzi* 君子) (5.16, 8.4, 14.28, 19.12), and excellent people (*shanren* 善人) (11.20), and even the *dao* of social roles, like the *dao* of a father (1.11, 4.20).

What unifies all these various uses of *dao* is that out of the concrete *dao* of the historical figures, and the *dao* of limited scope (such as the *dao* of the father), we can generalize a quality common to all of them—a quality we can see to an age, and to a state. As Hall and Ames tell us in *Thinking Through Confucius*, "these persons and periods [that are said to have a *dao*] are really symbols of a certain qualify of life" (228).

But *dao* is not simply the quality of any life. *Dao* is normative\(^27\) because it is the quality of a *good* life. As A.S. Cua tells us in his book *Moral Vision and Tradition*, *dao* "is an evaluative term. ... Commonly rendered as ‘the way,’ *tao* [道] is functionally equivalent to the ideal ‘way of life’"—a good life (273 f.). As one of Confucius’s disciples puts it, if someone does not strive to engage in the process of *dao*, “it makes no difference if they live or die”—in other words, *dao* is the *sine qua non* for a life worth living (*Analects* 19.2, see also 4.8).\(^28\)

As a term that refers to the good life *dao* seems quite similar to the Greek notion of *eudaimonia*. One significant respect in which *eudaimonia* and *dao* are similar is that neither of them is some static thing: they cannot be achieved once and for all. Aristotle says that we must almost wait for the person to be dead before we can pronounce them

\(^{27}\) One might wish to say that while *dao* is normative it is not a norm. Hall and Ames make this distinction in regards to *yi*, saying that while *yi* has a normative force, it does not give us any “strict guidelines”—and it therefore, not a “norm” (102). While they make this distinction in terms of *yi* it is equally applicable to *dao*. Cua makes a similar distinction in *Moral Vision and Tradition* regarding *dao*. Here he distinguishes between norms and ideals: where norms provide a telos for particular actions, an ideal provides a general telos for the quality of our life as a whole and (*Moral Vision* 259; see *Dimensions* 137). The way that we have been using the word norm, however, is quite capable of applying to both sides of the distinctions Hall and Ames, and Cua make.

\(^{28}\) Unless it is indicated otherwise, all of my translations of the *Analects* are taken from Ames and Rosemont.
eudaimôn because it is a quality to one’s way of living (Nicomachean Ethics 1100a10-31). This is because, as he says, “eudaimonia is an activity; and clearly activity comes into being, and does not belong [to someone] as a possession does (1169b29-31; 1100a14). Likewise, dao is said to stretch one’s whole lifetime (Analects 8.7). Yan Hui, Confucius’s favorite disciple, illustrates that even the best student of Confucius can never possess or fully accomplish dao. He says,

The more I look up at it, the higher it soars; the more I penetrate into it, the harder it becomes. I am looking at it in front of me, and suddenly it is behind me. ... Even if I wanted to quit, I could not. And when I have exhausted my abilities, it is as though something rises up right in front of me, and even though I want to follow it, there is not road to take. (9.11)

Dao is both a quality of life and a project for life, and permeates—in the sense that is unifies and defines as a whole—the living of a good life (Cua ibid.; cf. Analects 4.5).

One of the major differences between dao and eudaimonia, however, is their respective scopes. When Aristotle talks about the good life he is talking about the life of an individual. While it is true that he says that a city-state can be eudaimôn (Nicomachean Ethics 1094b7), eudaimonia can just as well be limited to a single individual—and it is limited in this way throughout the Nicomachean Ethics. Dao, on the other hand, is not associated with only a single person. In fact, for Confucius there can be no separation between the good life of a person and the good life of a community.

One might wonder about the accuracy of this contrast between eudaimonia and dao when faced with a number of passages where Aristotle points out how the quality of the lives of others can affect the quality of our own. For instance, he says that the lives of descendents clearly affect the quality of the lives of their ancestors in some way
though whether it is enough to rob one’s ancestors of their eudaimonia is a matter Aristotle is uncertain about (ibid.). He also says that one’s own welfare, fortune, and upbringing, which affect one’s quality of life and whether one is eudaimôn, depend upon others—one’s family, one’s political leaders, one’s city-state (cf. ibid.). This is why Aristotle speaks of a human being as “a naturally political animal”: unlike the Olympic gods, we can achieve complete happiness only within a political community (1097b7). Yet, despite all this, other people simply seem to be means to establishing and preserving one’s eudaimonia; the quality of their lives and the quality of the city-state is not included within one’s own eudaimonia except in this teleological fashion. Dao, on the other hand, is nothing if not the quality of one’s community as a whole.

Another interesting point of contrast between eudaimonia and dao is the difference in the degree to which tradition plays a part in each notion. Aristotle has a tradition behind him, which includes the Homeric legends that offer heroic examples of some of the virtues. But he chooses, for the most part, to restrict himself to the opinions of his contemporaries (see 1095a25). In articulating dao, Confucius has a rich cultural inheritance to draw upon; and, unlike Aristotle, he gives careful attention to his tradition (Analects 7.1, 7.28).

This legacy of tradition is rightfully one of dao’s major dimensions, and—as Hall and Ames point out—has lead many commentators on the Confucian tradition to “nominalize dao”: to treat it as something given and fixed, and “explaining it as a preexisting ideal to which conformity is enjoined” (227). This reading of dao seems to have some support. Take, for example, Confucius’s statement at Analects 7.1: “Following

29 Achilles, for instance, exemplifies the character virtue of courage, and Odysseus exemplifies the intellectual virtue of cleverness (see Plato’s Lesser Hippias 363c).
the proper way, I do not forge new paths; with confidence I cherish the ancients” (cf. Analects 7.28). He says he “does not forge new paths”—he does not zuo 作: he does not begin, initiate, invent. This statement suggests that he is not doing anything more than carrying on the tradition with its preexisting understanding of the good life.

In Thinking Through Confucius Hall and Ames make a deliberate effort to show why this treatment of dao is wrongheaded (226-237). First of all, we should recognize that the dao of the ancients is said to “reside within people” (daozairen 道在人) (Analects 19.22). To say that dao is located within human experience is not enough, however, to rule out either the possibility that dao originated from something else—something transcendent to human experience—or the possibility that dao is fixed. Yet Confucius also says that dao comes from and is established by people: “people are capable of extending or broadening [hong 興] dao, it is not the case that dao extends or broadens people” (15.29, my translation). This is why Hall and Ames insist upon the verbal side of the word “dao.” Dao is not simply to be understood as a path or a way; it is the process of way-making. A process that is not to be understand as clearing a totally new path in the thick of the forest, nor merely following in the footsteps of others, but as broadening and extending of the dao we have inherited from our tradition. We receive dao as an inheritance, but the human being also “has an active, creative role in continuing, broadening, and extending the tao [道]” (Hall and Ames 229). As such, we can see two aspects to dao—its root in the tradition as our appropriate inheritance, and its branch-tips that are the outgrowths that are realized in the process of extending the dao.

30 Interestingly enough, though too superficial to warrant much attention, the composition of hong 興 as a bow 拱 after being released by the forearm suggests, once again, an archery metaphor for the good life. But while Aristotle talks about the good life as a target, the idea here seems to be that dao is not so much a telos, but as an effort, a discharge—the motion and process of realizing the good life.
The way Confucius understands this process of living dao—embodying the
tradition’s dao, and extending it—is in terms of ren. There are two reasons to make
this connection. First of all, Confucius not only repeatedly associates dao with ren, he
also seems to articulate dao in terms of ren (229; Analects 4.5, 8.7, 27.4, and 12.22).
Second, those who are said to extend dao are the junzi (or “exemplary persons,” as
Ames and Rosemont translate the term) (19.7). While Confucius may have some concrete
examples of the junzi in mind from time to time, when he speaks about the exemplary
person the term is primarily a regulative ideal: a type of person who is worthy of great
praise. And one of the most basic characteristics to this ideal of the exemplary person is
ren. As Confucius says,

Wherein do the exemplary persons (junzi) warrant that name? Exemplary persons do not take leave of their authoritative conduct (ren) even for the space of a meal. When they are troubled, they certainly turn to it, as they do in facing difficulties.” (4.5; cf. 14.28)

In fact, as Hall and Ames point out, ren and junzi are so close in meaning that these terms are actually interchanged at Analects 6.26, and they are used synonymously in many other passages (187).31

What, then, is ren? And how does being ren entail embodying and extending the dao that we inherit? When Fan Chi asked Confucius what ren was, “The Master said ‘airen—love others’” (Analects 12.22; cf. 17.4). This seems to be at least one way of understanding ren, yet how are we to understand this phrase airen? Should we understand ai merely as an affection or emotion? If so, ren would seem to be nothing

31 Hall and Ames provide an exhaustive footnote that illustrates the obvious parallels in the description of ‘those who are ren’ (renzhe 仁者) and the exemplary person (junzi) (footnote number 89, p. 355 f.).
more than loving other people in a solely emotional sense. This understanding of ren fits perfectly with the translations that render the term as “benevolence,” “agape,” “compassion,” “kindness,” etc. (see Hall and Ames 112), and with the commentators like Tu Wei-ming, Wing-tsit Chan, and D.C. Lau, who present a psychologized understanding of it.

Hall and Ames begin their discussion on ren in Thinking Through Confucius by arguing against a psychologized reading of the term. Ren is much more than merely a state of mind, they tell us; it is the process of achieving a quality to one’s conduct, and to one’s life as a whole. Echoing the statement in the Zhongyong that “realizing oneself is called ren (仁)” (25), Hall and Ames see this process of ren as a process of “person making” (114-125). A process characterized by the transformation from ren 人 to ren 仁—that is, becoming a person (ren 人) in relation to others (er 仁). What accounts for the difference between ren 人 and ren 仁 is the degree to which one is able to incorporate into one’s contextualized practical judgments (yi 義) the various “conditions and concerns” of those in one’s community—the degree being “the basis for determining one’s quality as a person” (Hall and Ames 117; 119). As Confucius puts it, “Those who are ren (仁) establish others in seeking to establish themselves and promote others in seeking to get there themselves. Correlating one’s conduct with those near at hand can be said to be the method of becoming ren (仁)” (Analects 6.30).

Another way of describing this process is to say that in order to take in the conditions and concerns of those around in one’s community—that is, to become ren—one must keji 克己, discipline the “ego-self” (12.1). The meaning of keji, though a bit
obscure, may be articulated in terms of the contrast between *li* 利 and *yi* 義. *Li*, used in a negative way when contrasted with *yi*, is understood as personal advantage: the advantages one seeks to appropriate away from those one construes as “other” and separate from oneself (Hall and Ames 93). As the *Analects* puts it, “Exemplary persons understand what is appropriate (*yi* 義), while people of small, narrow interests (*xiaoren* 小人) understand what is of personal advantage (*li* 利)” (*Analects* 4.16 my translation, cf. 7.16, 14.12). Thinking of personal profit entails using a very ego-centered perspective when making one’s contextualized practical judgment (*yi*). *Yi*, on the other hand—when it is used in an evaluative sense,—as, for instance, when it is contrasted with personal advantage—is a contextualized practical judgment that looks beyond one’s ego-self, and integrates the concerns and conditions of others. Disciplining the self, then, refers to the process of moving beyond the narrow perspective that takes only one’s own advantage—in opposition to the advantages of others—as what is appropriate (*yi*).

Of course, the *wish* to include the concerns and conditions of others does not, by itself, entail the *ability* to fulfill that wish; and that is why the Confucian notion of *shu* 恕 is so important. *Shu* is the method of analogical thinking whereby one finds analogies between oneself and others, and is able to think-and-feel (*xin* 心) like (*ru* 如) them. If we are able to think analogically, we will be able to include the conditions and concerns of others in our own contextualized practical judgments. Hence, we will succeed at *ren* by establishing others and cultivating social harmony (*he* 和)—promoting the quality of life that Confucius refers to as *dao*.

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32 Which is to say, when *yi* is not being used to simply refer to a judgment in a non-evaluative way as simply a judgment (*yi*) regardless of whether it is ego-centered or not.
This, I take it, is the significance of characterizing ren 仁 as airen 愛人. “Loving others” is a process of establishing them. This sense of ai is strongly suggested by how the word is used at Analects 17.21. Here it is used to refer to the loving care one receives from one’s parents in the first three years of life. It is only after this time of tender care, Confucius says, that an infant can finally leave the bosom of his parents. Ai 愛 could not sustain the infant if it were merely good feeling and affection—especially in these first three years of childhood. Ai, here, must refer to the labors of care that parents perform for their infants, a care active enough to sustain their infant’s life. If this is how we are to understand ai, then we cannot think of airen as merely an other-regarding emotion. It must involve conduct, caring conduct. For this reason it would be better to translate airen as “caring for others” rather than “loving others” because “care” can include not only one’s emotions of love and concern for others, but also one’s labors of care for their sake. 33 In any case, airen does not terminate with mere affection, but includes coming to realize the concerns of others, and acting in light of their concerns.

How is dao linked to ren 仁, understood as airen 愛人? The answer lies with li 禮—one of the moral norms towards which a normative question can be asked. This is because li 禮, or “ritual propriety” as it is often translated, is a matter of tradition—a large part, if not the entire body, of what we inherit from tradition and what is embodied in dao (Lau 20; Fingarette, Confucius 6, et passim)—and plays a vital part in the process of ren. When Yan Hui asked Confucius about becoming ren, Confucius replied, “If it is

33 What we have said about airen as the process of establishing others should not lead us to conclude that it is a necessarily a process of self-sacrifice. Ren does entail moving beyond thinking about one’s personal profit to the exclusion of the concerns of others (li 利), but this does not mean that our interests should not be included in our considerations of how to conduct ourselves. The aim is to integrate and coordinate one’s conduct in light of the concerns of those close at hand—which should include oneself.
not in accordance with ritual propriety (li 禘), do not look at it, if it is not in accordance with ritual propriety, do not listen to it, if it is not in accordance with ritual propriety, do not say it, if it is not in accordance with ritual propriety, simply do not do it” (Analects 12.1). Before we can see how li functions in the process of ren we must first understand some of its relevant features.

D.C. Lau and A.S. Cua both describe ritual propriety in terms of rules of conduct. Lau says that the li make up “a body of rules governing action in every aspect of life” (20). Cua says, “the notion of li focuses on the ritual code”, where “the ritual code” is to be understood as “essentially a set of rules of proper conduct pertaining to the manner and style of performance” (Moral Vision 276). The li, as rules of conduct, are said to have a large scope, covering all manner of social norms. In the Liji 禘記, for instance, Cua tells us that the subject matter of li “ranges widely from formal prescriptions (or ritual rules) concerning mourning, sacrifices, marriage, and communal festivals to the more ordinary occasions relating to conduct towards rulers, superior, parent, elder, teacher, and guest” (288).

Cua sees the formal side to the prescriptions of li as central to their meaning. In fact, he uses the idea of “formal prescriptions” to define ritual propriety, saying that “any practice or set of action-guiding prescriptions that stresses formal procedures for proper behavior” qualifies as li (“Moral Justification” 1). This leads him to conclude that “law, morality, religion, and others social institutions, insofar as they require compliance with formal procedures” are examples of li (ibid.). But is “formal prescription” a sufficient criterion for defining li? When we read Analects 2.3, for example, we see Confucius clearly contrasting the ‘formal procedures’ of law with the ‘formal procedures’ of li.
The Master said, “Lead the people with administrative injunctions and keep them orderly with penal law, and they will avoid punishment but will be without a sense of shame. Lead them with excellence and keep them orderly through observing ritual propriety (li) and they will develop a sense of shame, and moreover, will order themselves.”

Both law and ritual propriety can be equally formal in the procedures they prescribe for conduct, but what Confucius is getting at here is the difference in the mechanisms by which legal norms and ritual norms are prescriptive. Laws are prescriptive because they carry with them the threat of punishment by the ruler. Li, on the other hand, are prescriptive because of the shame involved in violating them. So Cua cannot satisfactorily define li as simply any “formal procedure for proper behavior.” The li are only those formal procedures that work by the personal and interpersonal power of shame and praise, not by the impersonal and external force of legal punishment.34

The formal rules for proper conduct that constitute ritual propriety aid the process of ren in a number of ways. For one, the li are instrumental to disciplining the ego-self, as well as broadening our concerns and growing our affections towards others. The li discipline the ego-self35 by preventing the pursuit of personal advantage (li 利), and thereby prevent its concomitants of social conflict and disadvantage for the other members of the community. The li do this by serving as a means for rectifying our “thinking-and-felling” (xin 心)—our desires, affections, interests; and this disciplines our ego-self. As the Daxue says, “by rectifying our thinking-and-feeling, we discipline what is personal” (xinzheng, er suo shenxiu 心正, 而所身脩). Cua tells us that the li are able to

34 Confucius’s distinction is quite similar to Max Weber’s own distinction between laws and conventions. Weber defines “laws” as prescriptions where “a staff [is] holding itself ready to use coercion” to enforce the practice and punish its trespassers (Economy and Society 5; 2 ff. and 20 ff.). “Conventions,” on the other hand, do not have an enforcement staff on their side, and they are “enforced” only by approval and disapproval—e.g., praise and shame (see 2 ff. and 20 ff.).
35 For a connection between li and keji, or discipline of the ego-self, see Analects 12.1.
rectify our thinking-and-feeling because they simultaneously restrict and redirect our desires, affections, and interests. As he puts it, the *li*

... comprise a set of constraints that delineate the boundaries for the pursuit of individual needs, desires, and interests. ... consist[ing] of social distinctions or divisions in various kinds of human relationships (*lun*), namely, the distinctions between ruler and minister, father and son, the eminent and the humble, the elder and the younger, the rich and the poor, and the important and unimportant members of society. ... [But the *li* also] provide conditions or opportunities for satisfaction of a person's desires within the prescribed limits of action. Instead of suppressing desires, the *li* provide acceptable channels or outlets for their fulfillment. (*Moral Vision* 292 f.)

If the *li* simply restricted the discharge of our desires without providing an appropriate outlet, people would certainly be more likely to break the prescriptions of ritual propriety.

Yet by providing an alternative means of engaging our desires, the *li* do not merely preserve their hold on our lives. They also provide the means of stepping beyond their guidelines by cultivating our affections for others. When our affections and desires extend to those around us, we will naturally take their conditions and concerns into our awareness of the situation, and make our contextualized practical judgments of appropriate conduct (*yi*) with them in mind. As we become disposed to this fuller awareness of others, we step beyond the need for the *li* to rectify our thinking-and-feeling. It is this that Confucius talks about when he says that at the age of seventy he could let his thinking-and-feeling wander without overstepping the mark (*Analects* 2.4)—at that age, and after years of embodying the *li*, his thoughts-and-feelings no longer needed to be checked and re-channeled since they already ran steadily within the channel of thoughts-and-affections that ritual propriety was instrumental in establishing.

*Li* are also quite helpful in the process *ren* because they facilitate the ability to think-and-feel analogically with another person (*shu* 謂). Confucius's notion of *li*
includes the rectification of names (zhengming 正名), which can be understood to include the association of names with certain roles and relationships, and the delineation of the conduct proper to each of these roles. With the rectification of names in hand, when we face another person we will have a rich understanding of their position—if we meet a father, for instance, we can quickly understand the general nature of his relationships with his son, his wife, his ruler, etc. This is quite helpful for analogical thinking since it supplies us with an idea of what it must be like to be in their position. And since shu is required for the process of ren, and li helps in this process, li is in this way quite useful for ren.

Beyond these two means (viz., disciplining the ego-self, and promoting an understanding of others) for cultivating a greater degree of one’s extension and integration of the concerns of others (i.e., realizing ren) the li also provides us with a repository of the tradition’s wisdom on what appropriate conduct would look like in generally described situations—like the situation of speaking to a ruler, or the conditions of promise-keeping. As such, the li are a rich resource for guiding our own estimations of appropriate conduct in situations. In this way the li prove to be a heuristic advantage to the process of ren; and it is this third function that seems to be the most common means by which li aids in the cultivation of ren.

Yet while the li are quite useful for determining appropriate conduct in a way that integrates a wide field of selves, the li are not alone sufficient for realizing ren. Yi 義 is also necessary. Yi is our ability to judge what is appropriate, where what is appropriate is contrasted with seeking personal advantage (li 利) that disadvantages others (7.16, 14.12, 16.10). In other words, what is appropriate implicates, rather than alienates, the concerns
of others. As our ability to sense what is appropriate, it is also that which allows us to appropriate the li 禮 of the tradition, and understand their significance in light of the novelties of the present—that is, the novel conditions to the circumstance, and the unique persons involved (Hall and Ames 84). This act of appropriation is necessary because the li that we inherit cannot be applied without interpretation.

Edward Levi, in his book on legal reasoning, makes this point concerning laws.36 As he says,

the basic pattern of legal reasoning is reasoning by example. It is reasoning from case to case. It is a three-step process described by the doctrine of precedent in which a proposition descriptive of the first case is made into a rule of law and then applied to a next similar situation. The steps are these: similarity is seen between cases; next the rule of law inherited in the first case is announced; then the rule of law is made applicable to the second case. (1 f.)

It is this application of the first case to the second that requires interpretation. As Levi says, “the scope of a rule of law, and therefore its meaning, depends upon a determination of what facts will be considered similar to those present when the rule was first announced” (2).37 As O’Neill and Wittgenstein would point out, this determination of which facts are similar between the two cases must be an interpretive act. As Wittgenstein says in his Remarks on the Foundation of Mathematics, “The rule does not do work, for whatever happens according to the rule is an interpretation of the rule” (249). O’Neill elaborates on this point when she says,

Rule-following, even following algorithms of arithmetic, provides no criterion of ‘right’ continuation: all rules are incomplete, and to ‘follow’

36 While li and laws are different in terms of their mechanisms for inciting motivation, that are similar in being general norms needing interpretation. Hence, Levi’s comments are relevant.
37 Cf. Gadamer 324-341.
them is to interpret them in a certain way. No rule can have written into it a determination of what it would be to follow it. (*Justice and Virtue* 79)\(^{38}\)

Drawing an analogy between legal reasoning and the Confucian reasoning involved in appropriate conduct, we can see how Levi’s comments are highly relevant to the use of the *li*. The *li* are, like the “rule of law” Levi describes, the rule of propriety—the generalized norm that is extracted from particular cases. But the application of a *li*, from one case to the next, requires that we recognize why a particular *li* is used in these cases.

Relying upon our observations of how our elders apply the *li* we can begin to recognize similar cases—but this recognition is something that is beyond the scope of what the *li* can entail. It is an act of interpretation—which Confucius refers to as *yi*. This is why Hall and Ames describe *yi* as one’s “capacity to adapt the tradition to [one’s] novel circumstance and intentions, and to recover these formal structures as an apparatus for developing and disclosing [one’s] own significance”—or, we could say, one’s own appropriate contribution to the process of *ren* and the cultivation of *dao* (84). As Confucius says, “acting on one’s sense of what is appropriate (*yi*), one extends the way (*dao*)” (16.11).

Seeing *ren* in terms of the movement between tradition in the form of *li*, on the one hand, and the extension of that tradition in the from of *yi*, on the other, we can see why *ren* (仁) can be translated as “authoritative conduct.”\(^{39}\) As Ames and Rosemont put it in the introduction to their translation of the *Analects*, “‘Authoritative’ entails the ‘authority’ that a person comes to represent in community by becoming *ren*, embodying in oneself the values and customs of one’s tradition through the observances of ritual

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\(^{38}\) For an argument for this claim, see Wittgenstein’s remarks on the rule-following paradox in *Philosophical Investigations*, especially §201.

\(^{39}\) See Hall and Ames, and Ames and Rosemont.
propriety (li). ... At the same time, the way of becoming human (dao) is not a given; the authoritative person must be a ‘road builder,’ a participant in ‘authoring’ the culture for one’s own place and time” (50).

Clearly both li and yi are normative since both make prescriptions on our conduct. It is also with regards to them that the normative question arises in Confucian ethics. Regarding li, normative questions can arise in two ways. The first way a normative question arises is due to the conflict internal to the various li. After all, the li exemplify all types of ethical norms, which John Dewey refers to as the “three independent factors of morality”: duties (which are also rights, or privileges, from the perspective of the person whom we owe our duties to), virtues or personal dispositions that are praised, and goods or the ends or goals of our actions (“Independent Factors” 199 ff.). Li, in the form of general imperatives about our how to conduct ourselves in the common relationships of father-son, ruler-subject, etc., outline the various duties and privileges that we have within these relationships. As for virtue, if we run with Aristotle’s notion of virtue (éthiké arête) as the dispositions of character (ethos) worthy of praise, then we have good reason to refer to some of the different terms of Confucian ethics—such as xiao 孝 (familial deference), zhi 直 (efficacious honesty), xin 信 (trustworthiness), etc.—as “virtues” as well, since they can also be referred to as “dispositions of character” (zhi 質) (Analects 17.8; cf. 12.8 and 6.18). Li also relates to these virtues by being instrumental to their cultivation. As for goods, it is said that the greatest merit of the li is that they promote the highest Confucian end: social harmony (he 和) (1.12).

Dwelling within each of the three categories of ethical norms, however, does not save the various li from conflicting. In fact, as Dewey says, moral situations are
composed characteristically of the conflict and tension that arises between different 
norms—between various duties, virtues, ends, as well as amongst norms of the same kind 
(“Independent Factors” 208 f.). That the tension between norms can cause uncertainty on 
the part of a Confucian agent is testified to by a number of passages in the Mencius. Take 
the following two situations. The first one runs:

Wan Chang asked, “The Book of Odes says, ‘How does one take a wife? 
By first telling one’s parents.’ If that were truly so, it would seem that 
Shun’s example was not to be followed. Why did Shun marry without 
telling his parents?”

Mencius replied, “Because he would not have been allowed to 
marry if he had told them.” (5A:2, Lau translation, modified)

Regarding this same story, and giving us a richer explanation for Shun’s conduct, 
Mencius says,

“There are three ways of being unfilial (buxiao 不孝). The most serious is 
to have no heir. Shun married without telling his parents for fear of not 
having an heir. To the exemplary person, this was as good as having told 
his father.” (4A:26, Lau translation, modified)

The second situation is as follows:

Chunyu Kuan asked, “Is it prescribed by the li that, in giving an receiving, 
man and woman should not touch each other?”

“It is,” replied Mencius.

“When one’s sister-in-law is drowning, does one stretch out a hand 
to help?”

“Not to help a sister-in-law who is drowning is to be a brute. It is 
prescribed by the li that, in giving and receiving, man and woman should 
not touch each other, but in stretching out a helping hand to the drowning 
sister-in-law one uses one’s discretion” (4A:17, Lau translation, modified)

In the first situation we have a tension between the duties one has towards one’s parents 
as part of the virtue of being filial (xiao 孝): on the one hand, to ask for their consent 
before one marries, and, on the other had, to provide them with an heir. In the second
case, the tension is between the duty of following the *li* regulating gift-giving between the sexes, and one’s duty in accordance with the virtue of having concern for one’s relations (*xiaodi*). Mencius has a means of resolving these tensions which appear to us to be simply in keeping with common sense, but that does not change the fact that the tensions are there, and that people like Wan Chang, for example, could, if in Shun’s position, not know how to act. And not knowing how to act, Wan Chang would be in a state of normative doubt.

Normative doubt can also arise because the various *li* do not always remain the same. At *Analects* 2.23 we read Confucius saying, “The Yin dynasty adapted the observances of ritual propriety of the Xia dynasty, and how they altered them can be known. The Zhou dynasty adapted the observances of ritual propriety of the Yin, and how they altered them can be known.” From one dynasty to the next there is continuity, to be sure, but there is also modification. Why? As the *Liji* puts it, “the Kings of the Three Dynasties did not copy the *li* of the preceding dynasty, because of differences in society” (Legge, *Li Chi* 2:102). But change does not occur merely between dynasties—societies change in small ways all the time. Confucius attests to this at *Analects* 9.3, when he tells us about the tensions between accepted practice and received *li*:

The Master said, “The use of a hemp cap is prescribed in the observance of ritual propriety (*li*). Nowadays, that a silk cap is used instead is a matter of frugality. I would follow accepted practice on this. A subject kowtowing on entering the hall is prescribed in the observance of ritual propriety. Nowadays that one kowtows only after ascending the hall is a matter of hubris. Although it goes contrary to accepted practice, I still kowtow on entering the hall.”

Chances are that the accepted practices, Confucius’s own conduct withstanding, will slowly become *li* themselves. We can see this quite clearly if we adopt Max Weber’s
distinction between “customs” and “conventions” (*Economy and Society* 2 ff.; 20 ff.).

According to Weber a custom is a usage—a practice—that has a history to it, but following or not following it has no repercussions—neither shame, nor punishment. A convention, on the other hand, is a custom that has become a matter of shame. The transformation of a custom into a convention, he says, really has nothing to do with the form of the thing practiced, or even the source of that practice, but merely the sedimentation of that practice over time.

One of the consequences of such changes to the body of *li*—either within a society, or between dynasties—is that we are prone to doubt our ability to tell when the *li* have been properly modified or replaced by different practices, and when they have been usurped by improper practices. This is the second way in which the normative question can arise regarding *li*, since if we are uncertain whether the *li* we are using to guide our conduct is proper, we will naturally have doubts about the propriety of following them.

The normative question can also arise in regards to the justification of a particular contextualize practical judgment of appropriate conduct—one’s *yi*. We can come to doubt such judgments merely because of the openness that is involved in *yi*. As Confucius says, “Exemplary persons (*junzi*) in making their way in the world are neither bent on nor against anything; rather, they go with what is appropriate (*yi*)” (*Analects* 4.10). This comment suggests a number of things about *yi*. One of them is that judgments of appropriateness cannot be made before the situation, in which we will make and carry out the judgment, arises. The dependence of *yi* upon the particularities of each concrete situation also means that Confucius is endorsing a life that is, by and large, “unprincipled”—a life where one does not use principles to preclude or prescribe conduct
before the concrete situation arises. This makes for a large degree of moral ambiguity and uncertainty. If we are earnest in living a good life, we will be, as Confucius says, constantly asking the question “What to do? What to do?” (15.16). Because of this ambiguity, we are likely to ask this question even when we begin to arrive at a practical judgment—and when we do that, we are in a state of doubting the justification of the normative force of that judgment. We are, in short, asking the normative question.

How might Confucius respond to these doubts? Concerning how *li* are justified—and how we know which *li* to follow in times of conflict, or how to determine justified change to these *li*—the answer may, at first, seem obvious. The *li*, after all, are part of tradition, and tradition has its own authority. As Fingarette argues, we feel a sense of awe in the face of tradition that we simply do not feel in the face of what is novel: “there is no doubt that the ultimate solemnity to which rite [*li*] is capable, the deep, archaic response it evokes in man’s soul, are never present insofar as any pattern of conduct or gesture is felt to be new, invented, or utilitarian” (*Confucius* 63). Awe in the face of tradition is attested to in the *Analects* when Confucius says that among the three things exemplary persons have awe for one of them is the words of the sages (*Analects* 16.8)—those who, at least by the traditional account, began the *li*.

More than just noting this emotional phenomenon, Fingarette believes that it was this feeling of awe that led Confucius to see “tradition as the effective emotional-moral authority of *li*” (*Confucius* 64). The idea being that our feeling of awe coincides with an authority to tradition, and an authority that can justify the norms of ritual propriety. But unless this authority is based on something more than an emotional response it seems difficult to say that this notion of authority of tradition as awe-inspiring could answer the
normative question. It may offer an interesting explanation of how a tradition’s norms have a psychological pull on us—but explanation and justification are two different things. If someone is in doubt, normative doubt, about whether she ought to mourn her parents for the three years the li prescribe, the explanation that such a practice is part of her tradition and so can be said to have a pull on her is of no use in resolving her doubt—and answers like this misunderstands the question. Likewise, an explanation like this does nothing for the doubts one might have when one perceives the conflict among the li, or perceives the changes some li have undergone. To be able to answer these normative questions we need a richer sense of the authority of tradition—something that is not an explanation, but a justification.

We could find this justification if we knew why a given li was adopted, and why it was sustained. Fingarette believes that the obscurity to the history of the li blurs any insight into this matter, and so he remains silent on this matter. But the Confucian tradition itself is not silent. As the Liji says, the li are “the embodied expression of what is appropriate (yi). If an observance stands the test of being judged by the standard of what is appropriate (yi), although it may not have been among the usages of the ancient kings, it may be adopted on the ground of its being appropriate (yi)” (Legge Li Chi 2:275; 1:390). In other words, the li are the embodiment of the past judgments of appropriate conduct (yi), which are passed onto us as an inherited legacy of moral wisdom. The justification of li—in their adoption and modification—then, is a matter justified by appeal to yi, not to the awe we feel in the face of tradition.

This is, after all, what is going on in Analects 9.3, quoted above. A shift has occurred in the practices in Confucius’s community—from hemp ceremonial caps to silk

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40 See also Hall and Ames 98, and Lau 20.
ones, and from kowtowing on entering the hall to kowtowing after ascending the hall. And what does Confucius say about this? He goes along with the change in the fabric of the caps because it is a matter of frugality, but he doesn’t go along with the change in the practice of kowtowing because he believes the change displays hubris. What Confucius is showing us is that he is not for or against change, but that he is for practices that are appropriate (yi), and against practices that are inappropriate. He is using his sense of appropriateness (yi) to decide how to conduct himself on these matters, and which practices to appropriate.

So it seems that the justification of any particular li, and the means of answering the two normative questions concerning them, is in the hands of yi. If we are uncertain of which li to follow, we must go with the ones that are appropriate. If we are in Shun’s position, we must marry without parental permission; if our sister-in-law is drowning, we must reach out a helping hand. And when we are uncertain about modifications to the li, we must trust in our sense of yi to determine the practices that are appropriate and should be part of the tradition. So the normative doubts about li are answered by means of yi—but how are we to answer the normative doubts about yi? We have merely shifted the weight of the justification from yi and li to yi alone, but we have not yet touched normative ground. We must ask after the justification of our contextualized practical judgments of appropriate conduct.

What is appropriate (yi) depends upon the context: the circumstances and those who are involved. This means that yi cannot be a norm that prescribes appropriate conduct outside of the particular context. Like Aristotle’s phronesis, yi cannot be captured in any schema or principle. As Hall and Ames put it, “Yi cannot be a principle in
any of the classical Western senses of that term. *Yi* is context-dependent and hence comes into being with its context” (102). *Yi* is realized in the moment, in the context, in a personal articulation of appropriate conduct. Because *yi* is context-dependent, and part of any context is the person who is attempting to conduct him- or her-self appropriately, *yi* depends upon someone to exemplify it. *Yi* can only exist in someone who models it. To know *yi*, then, we must look to those whom Confucius could describe as an exemplary person (*junzi*君子), an authoritative person (*renzhe* 仁者), a consummate person (*chengren* 成人), or a sage (*shengren* 聖人). While all of these types of people model *yi* for the purposes of this Thesis, when we speak about the exemplars of Confucius, we will limit ourselves to the *junzi*.41

Since *yi* is comprehended with reference to these exemplary persons, what does this say about the justification of *yi*? It seems that the most basic standard for knowing how to conduct ourselves appropriately is to be found in the person of these exemplars. Their examples are what we must appeal to when we justify our own articulations of *yi*. But what is the source of their normative authority? They are said to be exemplars, and they have a normative authority on the basis of this claim, but how can we be reasonably certain that they are *good* exemplars? In order to answer this question we must investigate the source and nature of the authority of these exemplars. This question is all the more urgent because it allows us to not only explain the final justification of the

41 This seems to be an acceptable restriction since it does not really alter the conclusions one can draw. The *junzi* exemplify *yi* (as well as *ren* and *li*), so they are adequate to the task. If, as some scholars think (e.g., Ch'en Ta-chi), there is a hierarchy among the various types of people (the *junzi*, *shengren*, etc.), on an analysis of hierarchy the *junzi* are at the bottom (cf. Hall and Ames 185 ff.). Hence, anything we can support (that is, justify in a positive sense) with their example would certainly hold with any person-type higher up on that hierarchy. Or, if one holds a view closer to Hall and Ames, that these various person-types are “at times .... coextensive” (188), then in speaking on only the *junzi*, we are not limiting ourselves completely to the *junzi*—again, what we can support with the *junzi* ought to hold for the other types.
moral norms of Confucius, but it would also allow us to determine whether the authority
Confucius is appealing to does or does not cause the moral blindness O’Neill and Kant
warned us about.

Section Three: Summary

Looking at how we have argued that Aristotle and Confucius answer the
normative question we can see that one of great similarities they share, in our account, is
their appeal to exemplary persons to justify their moral norms. For Confucius, the
justification of moral norms could be said to come down to the junzi; for Aristotle, it
comes down to the phronimos. But what exactly is an exemplary person?

In his *Grounding for the Metaphysics of Morals* and *The Metaphysics of Morals*
Kant makes a helpful distinction when he speaks about the difference between what he
calls an “example” (Beispiel) and what he calls a “model” (Muster) (*Grounding* 408;
*Metaphysics* 480). In German Beispiel is used often in the expression zum Beispiel,
which is equivalent to our own use of “e.g.,” (exempli gratia). It is used after one has
made a statement and merely wants to give an instantiation or illustration of it. We say,
“There are many tall trees in the world, (e.g., redwoods).” In this statement redwoods do
not define the tall tress, they merely express or illustrate the notion.

This difference between defining and illustrating seems to be what Kant has in
mind we he contrasts examples and models. For Kant examples are those who illustrate a

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42 Though in Aristotle’s case we have attempted to show, despite how he historically seemed to answer the
normative question by appealing to a normative biology, how he would need to answer it if he remained
consistent with his own natural philosophy.
43 The “role” in role model, for Aristotle and Confucius, is not limited to any particular role in society—like
the role of a brother or a bank-teller—but the role of being an exemplary person in general.
44 The distinction between models and examples can also be found in Fingarette’s essay “How the Analects
Portrays the Ideal of Efficacious Authority”, and Hall and Ames 176-182.
moral norm—a norm that exists independent of them. The only role Kant affords people who are examples is to merely prove that a life lived according to the moral law is possible (ibid.). Hence, the value of an example is derivative: the example is not a norm in their own right, but merely an example of a pre-existing norm. Craftspeople, as Aristotle describes them, are a good illustration of an example because craftspeople have a telos in mind, and their work is merely to realize that telos. Hence, in demonstrating her craft to an apprentice, the value of the master craftsperson’s demonstration is dependent upon her ability to illustrate the behavior that realizes the telos of that craft. Hence, it is the telos that is the real source of value for a craftperson’s work (Nicomachean Ethics 1140b3-7). As such, the craftsperson can only be an example to her apprentice.

A model, on the other hand, is someone who is an “original example” (Grounding 408)—they are the criterion, standard, or norm for their own selection as an example. The German Muster is used, after all, not just to point out examples, but also to refer to standards and norms (Betteridge 429). Hence, unlike examples who merely illustrate a norm that exists outside and independent of themselves, models constitute a norm.

If we were to translate into Kantian terms our notion of “exemplary person,” which we use to designate the junzi and the phronimos, we would speak of them not as examples but as models. They constitute a norm and do not merely illustrate some norm. As for the norm that each exemplary person constitutes, it is practical intelligence (yi for Confucius, phronesis for Aristotle), or the way of living a life guided by practical intelligence. It should be clear from what we’ve argued above that practical intelligence is not one of those things that can be summarized in a schema, or adequately defined in a principle. Practical intelligence is an event because it can only be articulated within
concrete situations. It cannot exist outside of the context and the person articulating it. That is why a concrete realization is needed in order to see practical intelligence, and why people like the *junzi* and the *phronimos* must rightfully be models of it. As such, the *junzi* and *phronimos* seem to be the source of their own normative authority.

Though Aristotle and Confucius share the manner of answering normative questions by appealing to the exemplars of practical intelligence, it is important to realize that they each have rather different notions of practical intelligence. Some of the most prominent differences center around the nature of deliberation and choice.

As we’ve already said, part of practical intelligence for Aristotle (*phronesis*) is the ability to deliberate well in practical matters (*eubouleusis*). Practical deliberation, according to Aristotle’s account, starts with a given end; only then do we work backwards, testing out possible means of achieving the end we have in mind. As he says, “we first lay down the end, and then examine the ways and means to achieve it” (*Nicomachean Ethics* 1112b15). Once we have hit upon the most efficient means of achieving our end, we have concluded our deliberation and made our choice (*prohairesis*) (1113a3-5). According to this method, when we deliberate we are guided by an end that is articulated before we arrive on the scene and can appreciate the situation. While context can play a part in the process of deliberating how we are to achieve our end, since an awareness of the context will affect the means we choose to pursue to that end, the end itself remains independent of the context in which we act.

François Jullien, in *A Treatise on Efficacy*, contrasts this mode of deliberation (or “logic of efficacy”), that works in terms of deliberating possible means of achieving a pre-given end, with the mode of deliberation that works in terms of the “relation between
conditions and consequences”—a mode of deliberation, he says, “favored by the Chinese” (40). This second mode of deliberation does not begin with an end that is determined outside of the situation, before the conditions are present; rather, it looks for favorable consequences that can grow from within the situation. Unlike “ends,” which are given beforehand, “consequences” emerge from and with the situation—they are context-depend. We can see this mode of practical intelligence in Confucius’s statement that the junzi are “neither bent on nor against anything; rather, they go with what is appropriate (yi 義)” (Analects 4.10)—the junzi ‘go along with’ (yubi 與比) what is appropriate as it unfolds in the situation.\(^45\)

As for the matter of choice, Aristotle says that it occurs at the end of deliberation, after we have considered all the possible means of acting that we know of (Nicomachean Ethics 1112b15). This idea of choice—thought of as the selection of one possibility from among various alternatives—seems to also find a home in Confucius. After all, doesn’t he say, “If a man doesn’t constantly ask himself, ‘What about this, what about this?’ I can do nothing about him” (15.15, Fingarette’s translation)? Yet, as Fingarette points out, while we may be inclined to read Confucius’s statement here as the claim that he can only help those who actively consider alternative ways of acting, this reading is not a necessary one. Fingarette, who is convinced that “the problem of genuine choice among real alternatives never occurred to Confucius, or at least never clearly occurred to him as a fundamental moral task” (Confucius 23), suggests that we read the question “What about this, what about this?” as asking, “‘What about this, is it right; is it the Way?’” (22).

\(^{45}\) See, for example, Liang Zheng-Ting’s Lunyu Jingu (or A Modern Annotation of the Analects of Confucius)—where bi 比, in 4.10, is glossed as cong 從: to follow, to comply with, to obey (48).
In other words, Confucius is concerned not with entertaining alternative courses of conduct and choosing amongst them, but of knowing how to act—knowing what is appropriate in the circumstances. Following this train of thought to its conclusion, Fingarette says that, for Confucius, “there is no genuine option [in ethics]: either one follows the Way or one fails” (21).

This reading of Confucius, however, suggests that dao (Fingarette’s “Way”) completely predates the agent, and that the agent can—therefore—make no contribution to the character of the good life. In response to this reading of Confucius, Hall and Ames suggest that the conclusion to be drawn from the absence of ethical deliberations and, a fortiori, the absence of ethical alternatives is certainly not the one that Fingarette has drawn: it is not the case that there is no personal autonomy, no truly creative contribution of the individual to the ultimate choices enacted in a given context. On the contrary, the alternatives are real and the selection among those alternatives is a necessary part of any yi act. That the alternatives as such are not consciously entertained indicates only that these are not candidates for reflective deliberation. (266)

Instead of the reflective consideration of abstract alternatives, Hall and Ames suggest that the Confucian agent agonizes over alternatives that are “immanently present and not abstractable from the concrete context” (ibid.). Unlike the example of a geometrician that Aristotle uses to illustrate his method of deliberation (Nicomachean Ethics 1112b20), a good model of Confucian “deliberation” and “choice,” neither of which are to be understood in an Aristotelian sense, might be found, as Hall and Ames suggest (266), in the example of the artist—one who agonizes in a concrete, and usually passionate, way over the alternatives that arise from her work. In sum, Aristotle’s notion of practical intelligence treats it like a reflective calculation, while Confucius treats it more like an intuitive responsiveness.
Chapter Three: The Authority of Exemplary Persons

Section One: Exemplary Persons and Moral Blindness

As we concluded near the end of the last chapter, both Aristotle and Confucius make exemplary persons their most basic moral norm, and see them as having their own authority. Yet this authority seems to be quite capable of promoting moral blindness—that is, the inability to critique one’s own norms or to see vicious norms for what they are. Kant, in his essay “An Answer to the Question: What is Enlightenment?”, illustrates this point. Here he defines enlightenment as “man’s emergence from his self-incurred immaturity” (“Enlightenment” 55). This “immaturity” consists, he says, in not using one’s own reason “without the guidance of another” (ibid.). Kant offers a number of examples: “if I have a book to have understanding in my place, a spiritual advisor to have a conscience for me, a doctor to judge my diet for me, and so on, I need not make any efforts at all. I need not think…” (ibid.). These arrangements thwart enlightenment.

In Truth and Method Hans-Georg Gadamer points out that for Kant, and many other Enlightenment era thinkers, it is the authority of those who we let think in our stead that is responsible for our not using our own reason (277). There is, as such, a mutually exclusive antithesis between authority and reason—authority is, for the Enlightenment, “diametrically opposed to reason and freedom: to be, in fact, blind obedience” (279).46

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46 By saying that we must break from authority in order to realize enlightenment, Kant is not suggesting that we disobey authorities—there is, for Kant, a difference between the epistemic issue of authority, and the political office of an authority. What he is saying is that we must actively engage our reason in the public sphere—debating matters, outside of the functions of our offices and duties as members of institutions, as scholars expressing their views by means of a free press—but we must obey our authorities nonetheless (unless, that is, unanimous critique alters the institutions that support these authorities). We must, as Kant says, “Argue all you want, but obey!” (56). In fact, he goes on to conclude that obedience to political authorities is important for cultivating the freedom of thought that liberates us from epistemic authority (59 f.).

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This is why authority cannot help but be a source of prejudices ("Enlightenment" 56)—i.e., judgments that are held before (pre-) all the facts are in, and before we have critically and rationally assessed the matter. Prejudices are judgments, in other words, that we do not hold on the basis of critical reflection, but on the strength of something non-rational. And authority is one such non-rational source for holding a prejudice. For example, the book that has authority over me, and thereby excuses me from thinking, establishes various prejudices in me that I did not critically reflect and endorse from an enlightened point of view. Nevertheless, on the basis of the authority of that book I have taken these prejudices on. However, what Kant is driving at is not simply that authority is the source of many prejudices, but that it is also—by its claim over us—what often precludes our ability to question or think critically about these prejudices.

If we have moral authorities to think in our stead, then on their authority we will carry various normative prejudices; and as long as the authority of such people remains unchallenged we cannot hope to be critical of the norms they give us. This is how authority establishes moral blindness—the blind endorsement and obedience of norms and normative judgments. In addition, because authority precludes the use of our reason, to be claimed by a moral norm on the strength of the authority of another precludes our ability to be critical of it. It follows that, given the antithesis between reason and authority, we will be unable to perceive, let alone critique, any vicious norms we hold on the basis of another’s moral authority.

This is one reason Kant is so critical of the idea of giving authority to moral exemplars. If exemplars are merely “examples” (Beispiele), all is fine because they are then only instantiations of a pre-existing moral law. Our respect for them is really respect
for the moral law—defined and justified by our pure practical reason (Grounding 408-9; 401n). But if we treat exemplars as a norm in their own right and not the instantiation of a norm, then exemplary persons will not be merely an example. They will be a "model" (Munster). Yet if we treat exemplary persons as norms, we grant them authority over ourselves—and this seems to entail the displacement of our own reason. Taking our exemplars as models, the principles of morality—which are rightfully determined by our own reason for Kant—will not be used to assess the real moral correctness of their example. Rather the exemplar will have their authority on their own standing, and will have the ability to define and justify our moral norms for us without engaging our reason—thereby precluding our ability to be critical. So by following the authority of a model we will have no way to critique their example, and no way to rationally determine whether we should model ourselves after them at all (408).

For Kant—as we said at above—the only role that exemplars ought to have in morality, even assuming their perfection, is the role of an encouragement: that is, to "put beyond doubt the feasibility of what the [moral] law commands" (409). Or, as he puts it in the Metaphysics of Morals, "A good example (exemplary conduct) should not serve as a model but only as a proof that it is really possible to act in conformity with duty" (480). Not willing to grant exemplary persons the status of "model" Kant thinks that they ought to never be imitated (Grounding 409). This is because, he says, if we follow someone's example rather than using moral principles to guide us, we are at best limited to an empirical conformity, or instantiation, of the moral law. But the conformity of examples to the moral law "is only very contingent and uncertain," and if "the guid[ing] and supreme norm [that is, the moral principles] for correctly estimating them is missing," we
will be "liable to all kinds of corruption" (390). Without the moral principles to guide us, and only examples to work with, we will inevitably err.

In the end, if we agree with the way in which the Enlightenment understands authority—as antithetical to reason—we seem compelled to agree with Kant (and O'Neill) that giving moral authority to an exemplary person makes the problem of moral blindness inevitable.

But is moral blindness something we can ever be free of? Moral blindness seems to be entailed in simply having a moral point of view. If we have abandoned the possibility of an a priori ground for our moral norms, we must recognize that we have no way to totally extricate ourselves from the normative perspective of our culture. If every perspective, as a perspective, has its own blind spots, when we gave up on the moral certainty of an a priori justification of our norms we also accepted a measure of moral blindness. Once we recognize the inevitability of some degree of blindness, we should not despair simply because our normative perspectives cannot avoid blindness altogether. Certainly we should attempt to overcome the limits of our normative perspective—that is a noble goal, and a valuable regulative ideal. But we must see that this overcoming is a process that we can only cultivate in degree and never accomplish in full.

One way to facilitate this process is to focus not on the issue of moral blindness as a whole, but to try to identify particular problematic consequences of moral blindness, and then try to avert them. Two such problems are formalism and partiality—both of which follow from the inability to critique the norms of one's culture, or what we have been calling "moral blindness."
Formalism is a term often used in ethics to refer to the “empty formalism” of some norms—usually abstract norms like principles, or doctrines. To call a norm an empty formalism is to say that it underdetermines conduct. For instance, Aristotle’s schema of the Golden Mean is insufficient to determine how one should act in the concrete, and proves at times to be incapable of serving as a selection criterion between various possible courses of action. This is what it means to underdetermine action, and to be an empty formalism. However, this is not what I mean by “formalism.” Instead, by formalism I mean the formalization—the calcification or institutionalization—of norms. 47

That is, when a norm becomes a formula, a dogma—a stagnant and unchanged norm. Formalization is a form of conservatism, and is often at the heart of any attempt at orthodoxy. A formalized norm is, simply put, a norm that is blind to the way in which different situations affect its significance in consequentialist terms. In other words, if norms must be interpreted whenever they are to be “followed,” or applied, then we can either strive to be aware of our interpretations and the assumptions about the context and desired consequences that condition those interpretations, or we may remain ignorant of them. Remaining ignorant is the root and core of formalism, since it is this ignorance that locks us into what Hall and Ames call “blind compulsion of repetition and continuity” (109). While any moral norm that prescribes uniform conduct is an example of a formalized norm, any norm that is viewed merely in terms of its form—its nature abstracted from and ignorant of its contexts and consequences—counts as a formalized norm.

47 Certainly this process of formalization can develop norms that are merely an empty formalism, but these two senses of formalism remain distinct.
Formalism in this sense occurs whenever we are unable to think critically—i.e., situationally—about our norms (be they principles, customs, or whatever) because, if we remain incapable of thinking critically about a norm, over time it can become canonized and followed for no other reason than to keep consistent with form. While formalism is possible simply when we are unable to be critical of the norms we receive from our culture, it occurs quite often when we are dealing with principles of conduct. Kant, for example, illustrates the process of formalization in the history of how he accounts for the permissibility of lying for philanthropic concerns.

If we look to his Lectures on Ethics, taken down by his students near the close of the 1780's, we find Kant actually making an exception for white lies: lies that are "enforced upon us by necessity" (228). A Kant says in these lectures, "the forcing of a statement from me under conditions which convince me that improper use would be made of it [such as some severe harm to myself or another] is [a] case in which I can be justified in telling a white lie" (ibid.). Yet when we turn to his essay "On the Supposed Right to Lie because of Philanthropic Concerns", which was published in 1799, we find a similar question being considered and a different answer given. The example Kant uses here involves a murderer who asks us at our front door whether our friend, whom they are pursuing, has taken refuge in our home. This situation would certainly qualify as a case of necessity, where a white lie would be justified under his previous reasoning. Yet this time around Kant rejects any justification of white lies and asserts that we must not lie—even to a murderer. Over time Kant came to advocate the moral principle of not lying, regardless of the circumstance. He ignored the way in which situations can affect the significance of following a norm like not lying. To insist, as Kant does, on the
absolute claim of a principle, like that of not lying, regardless of the situation and the consequences that would follow from acting according to this principle in the given situation, is to formalize that norm.

While formalism can occur in terms of normative principles, it is also prone to arise when the norm is an exemplary person. This is due to the part imitation can play in the process of modeling. In modeling, there is the exemplar or model, and then there is the aspirant—those who take the exemplary persons as their norm, and model themselves on them. But when it comes to using an exemplary person’s life as a norm, and modeling oneself on it, there are different aspects of that life which one can model on. One aspect an aspirant can focus on is the particular actions of the model, without paying attention to the particulars of the situation in which the exemplar had acted. If this is done, our modeling on their example can turn out to be nothing more than mere repetition of their conduct. And if this is all there is to the modeling process—the mere repetition of the actions of the model, regardless of the difference between ourselves and the exemplary person, or between our situation and theirs, then their example becomes a formalized norm.

The danger of formalism is evident in the consequences that follow from acting by form, without awareness of what different situations call for. As John Dewey reminds us, because “social situations alter ... it is ... foolish not to observe how old principles actually work under new conditions, and not to modify them so that they will be more effectual instruments” (*Nature and Conduct* 221). This remark not only holds for principles, but for any type of norm—that their form will need to adapt to the emerging situations. Failing to modify our norms serves to frustrate our own actions, and can lead
to very serious consequences. Kant’s insistence on the immutability of the principle ‘to not lie’ may lead us—as he acknowledged—to do something like inform a person intending to kill our friend that, yes indeed, the friend is hiding in our house. But one of the greatest threats of formalization occurs over a much larger scope of time. When a community formalizes its norms, with the passage of time those norms become even more impossible for the subsequent generations to break away from without an outright revolution.

As for partiality it is, quite generally, “the one-sided preference for what is close to one’s own sphere of ideas.” In normative terms it is the one-sided preference for the norms of one’s own community or culture over the norms of other communities and cultures. While formalism is a problem that occurs within the limits of a community or culture, partiality is a problem that concerns the way we relate to other communities and cultures. Hence, partiality does not become evident within a single community, but only when a community’s norms are placed in contrast with the norms of another. When this occurs, we can perceive the one-sided preferences each community has for its own norms—the favoritism each has for their norms. Experiencing this contrast has the potential of disclosing the fact that most of these one-sided preferences are unjustified. Certainly our norms claim us in a way that the norms of the others do not, but this, by and large, is merely the result of chance: the fact that we grew up in our culture rather than theirs. Hence, when our norms are contrasted with the norms of another there arises the opportunity to see the accidental nature of the claim our culture’s norms have on us.

Moral blindness, however, militates against this insight, and serves the preservation of our partiality. If we do not already have an ability to be critical of our

48 See Gadamer 278 and Schleiermacher (Werke, 1, part 7, 31) for this definition of partiality.
own culture’s norms, even the experience of seeing that our norms are limited to our
culture will not provide us with any reason to become skeptical of the claim our norms
have on us. If we are morally blind, we will be unable to understand any reason for
freeing ourselves from their claim. So, when our norms are contrasted with those of
another, instead of seeing the accidental nature of our norms’ claims on us, we will
simply see any contrast between our norms and the norms of the other as a sign of error
on their part.

Partiality is a possibility simply whenever the justification of our norms depend
upon cultural authorities since when there is a difference between the norms of two
cultures there seems to be no way to mitigate this difference and justify the norm to the
satisfaction of both parties. Justifying norms by means of exemplary persons also seems
quite prone to produce partiality. This is due to the charisma every role model has, as
such.

If someone is a model to be followed, they have a prescriptivity that makes their
person charismatic. In other words, when a person—and not a principle, rule, or
custom—is a norm, their prescriptivity takes on a persuasive and human dimension, and
this charisma can blind us in a way that principles simply cannot. Their prescriptivity can
make us loyal, nationalistic, etc. in a more personal, affective way than we commonly
experience with rules. And this fact explains why exemplary persons can produce
partiality of an extremely strong variety.

The problem with partiality is that because it privileges one’s own norms over
those of another it prevents us from entertaining the truth of the norms of other cultures
and communities. The other, in normative respects, is unheard; and this is detrimental to
both parties. It is detrimental for the other because it robs them of the voice to
remonstrate with us. Hence, if they are oppressed by us, or abused in some other way,
they will remain abused. It is detrimental for us because it robs us of the chance to learn
from the normative differences between our cultures, sub-cultures, or communities. At
best, partiality means we will miss opportunities to learn. At worst, it sustains practices
like oppression, imperialism, and enslavement. But in either case partiality is a source of
strife between communities. Mozi, for one, saw this connection.

Living in the Eastern Zhou dynasty, a time filled with the strife between states,
between clans, and the oppression of the weak by the strong (Mo Tzu 39), Mozi says:

When we inquire into the cause of these various harms, what do we find
has produced these harms? Do they come about from loving others and
trying to benefit them? Surely not! They come rather from hating others
and trying to injure them. And when we set out to classify and describe
those men who hate and injure others, shall we say that their actions are
motivated by universality [jian 禮: equal treatment of people—inclusive
caring] or partiality [bie 別: differentiating between people—exclusive
caring]? Surely we must answer, by partiality, and it is this partiality in
their dealings with one another that gives rise to all the great harms in the
world. (ibid.)

Combined with a case of moral blindness treating any person as an “other” (bieren 別人),
as someone excluded from our own community or sphere of concern, allows us to
mistreat them and offer them no outlet for redress. This certainly leads to harm to the
oppressed, and a perpetuation of their status; but it also serves to promote unrest among
the oppressed, and endangers the oppressor community.

Looking at the historical record it is significant that both Aristotle and Confucius
exemplify the problems of formalism and partiality. While we have argued that
Aristotle’s normative biology is not in keeping with his natural philosophy, he still
endorsed the idea that women and slaves were naturally inferior to freemen. And his views on women and slaves exemplify partiality at its worst. Formalism is also implied in his comments on women and slaves since the views that support his claims about them are said to be natural—and what is “natural” is incapable of critique. Hence, the norms that were informed by his opinions of women and slaves were formalized norms.

As for Confucius, the *Analects* identifies the root of the process of ren (仁) with the family—namely, with the concern involved in familial relations (1.2). And, as we have already mentioned, he gives the task of realizing and sustaining the process of ren to exemplary persons (junzi). Yet relying upon familial relations to initiate ethical conduct, and exemplary persons to sustain it, risks moral blindness—both in terms of partiality and formalism. As we read in the eighth chapter of Zang Shan’s commentary on the *Daxue*,

Men are partial⁴⁹ [or blinded] where they feel affection and love; partial where they despise and dislike; partial where they stand in awe and reverence ... Thus it is that there are few men in the world who love and at the same time know the bad qualities of the object of their love, or who hate and yet know the excellence of the object of their hatred. Hence it is said, in the common adage, “A man does not know the wickedness of his son; he does not know the richness of his growing corn.” (Legge, *Confucius* 369)

Because we are often partial in matters of affection and love, we are partial with our family and blind to their shortcomings; because we are often partial in matters of awe and reverence, we are partial with our exemplars and blind to their shortcomings. There is a real danger, in other words, with any ethics that takes its root in the family, and is sustained by exemplary persons, because anyone ethically cultured by these sources risks being blind to the shortcomings of their familial elders and exemplars.

⁴⁹ *Bi* 辭, which Legge translates as “partial,” following Zhuxi’s gloss of *bi* 辭 as *pian* 偏.
As a “person,” in the Confucian sense of the word, Confucius is more than merely a historical individual. He is a tradition (Hall and Ames 24; cf. 307). And if we look to the Confucian tradition, we can see that the danger of moral blindness did not just threaten—it was realized. As Hall and Ames make clear at the end of *Thinking Through Confucius*, “Confucius’ reliance upon traditional culture” has given rise to what we have called the problems of partiality and formalism. The reliance upon traditional culture is, as Hall and Ames say, the “principle cause of what we might call ‘the Chinatown phenomenon’”—that is, the “parochialism built into the Confucian structure[, things like the role of familial ties, gradated levels of concern, and the project of starting at home, and working toward social harmony from there,] that retards cross-cultural communication” (308 f.). The reliance upon traditional culture has also given rise to formalization since “there is a fine line between appropriate deference to the tradition and a cultural dogmatism...” (310). As a result, “Confucianism historically has been prone to ossify and become an ideology” (ibid.).

In light of the historical shortcomings of Aristotle and Confucius, with respect to partiality and formalism, to avoid being morally blind ourselves, we must see if an ethics defined and justified by exemplary persons might be able to avoid these problems. We must ask whether these problems of formalism and partiality are necessarily, or merely historically and contingently, associated with the ethics of Aristotle and of Confucius. To put it differently, whether the authority of the moral exemplars of Aristotle and Confucius *necessarily* lead to these problems. To be able to answer this question we must investigate the nature of the authority of these exemplary persons.
Section Two: The Authority of Aristotelian and Confucian Exemplary Persons

In the course of the *Nicomachean Ethics* the only historical example of a *phronimos* that Aristotle gives us is the politician Pericles. This fact combined with his statement that the *phronimos* are unique by knowing the good not just for themselves but for the whole community (that is, by knowing political science (*Nicomachean Ethics* 1140b7-10)), easily inclines one towards thinking of the *phronimos* as political leaders. Roughly the same could be said about the *junzi* (君子) since the *junzi* tend to take office. As we read at *Analects* 18.7, “To refuse office is to fail to do what is important and appropriate” since “the opportunity of the exemplary person (*junzi*) to serve in office is the occasion to effect what is judged to be important and appropriate.” Given the association made between political concerns and the Aristotelian and Confucian exemplary persons it seems natural to begin to think of these exemplary persons as performing legislative roles—to be, in short, the sort of people that have the ability to set down laws.

As the legal positivist John Austin points out, those who legislate laws have, by that fact alone, a superiority and authority. A law, as Austin defines the term, is a prescription—but a distinct variety of prescription. It is an institutionalized prescription in the sense that it holds for a community and holds for a longer time than on the occasion on which it is communicated. A law “obliges [or prescribes] *generally* to acts or forbearances as of a class” and not to specific actions or forbearances (Austin 19). Laws are also a distinct type of prescription in that they are “commands:” they are prescriptions backed by sanctions, or the threat of punishment if the prescription is not followed (14).

50 Why it can only be a rough approximation is because, for Confucius, there is no strict divide between the public sphere and the private, between being in office and being out of it (see *Analects* 2.21).
Hence, legislators—or law-givers—are those people who are able to express prescriptions to a community, institutionalize those prescriptions in some manner, and have the wherewithal to make those prescriptions commands by backing them with the threat of punishment. This accounts for the legislator's "superiority" or authority (25). Theirs is an authority of command.

It is true that both Confucius and Aristotle see the implementation of laws—institutionalized prescriptions backed by sanctions—as one possible (though perhaps doomed) method of establishing social harmony. But both understand the authority of their exemplars, qua exemplars, to spring from a different source.

Confucius explicitly contrasts the method of the legislator with that of the junzi. The legislator imposes social order by using laws backed with the threat of punishment. Such legislators have an idea of social order already in mind, and attempt to realize that order through the use of laws. The junzi, on the other hand, cultivate social harmony in a non-coercive manner, by means of the charisma of their moral excellence. As Confucius says,

Lead the people with administrative injunctions (zheng 政) and keep them orderly with penal law (xing 刑), and they will avoid punishment but will be without a sense of shame. Lead them with excellence (de 德) and keep them orderly through observing ritual propriety (li 礼) and they will develop a sense of shame, and moreover, will order themselves. (Analects 2.3)

So while the legislator works on their subjects from without, frightening them with the threat of pain, the junzi are exemplars: they work on others from within. Through their

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51 Where "social harmony" is to be thought of in terms of he 和 for Confucius, and a city-state's eudaimonia for Aristotle.
exemplification of excellence (de 德) they shame others in their deficiencies while at the same time inspiring them with a desire to become better (ibid.).

Aristotle also recognizes the difference between compulsion, or the use of laws (nomoi) backed by sanctions, and being inspired to do fine (kalon) things (see Nicomachean Ethics 1116b2). Yet while Confucius contrasts the junzi with those who would implement laws, there seems to be no contradiction with the idea, in Aristotle’s mind, of phronimos legislating penal law (1179a5 ff.). Still, Aristotle also speaks about the actions of the phronimos as fine (kalon)—that is, as having something attractive, something beautiful and admirable, about them. There are, then, two possible ways of realizing the eudaimonia of a city-state—through penal law and the inspiring exemplification of fine actions. Why is it that the phronimos cannot simply skip legislation altogether and rely upon the non-coercive power of their exemplification?

Aristotle’s response to this question is that the attraction to fine things is not something that is natural. It takes a good upbringing where we learn to take pleasure in fine things. Only then will the exemplification of the phronimos inspire us. Unfortunately most people (namely, hoi polloi) lack this upbringing, and so the non-coercive power of the phronimos’s exemplification is utterly lost on them. What the many need is legislated laws: nomoi backed with sanctions (1179b5-1180a20). If the phronimos have any authority over the many, it can only be through their ability to legislate. So it would seem that the phronimos can have the authority of command. But it is important to realize that this authority of command is incidental to the phronimos. It is not necessary that one legislate in order to be a phronimos; it is only natural that it is in the interest of the city-state that they do so. So while the phronimos might incidentally have the authority of
command, as a *phronimos*—that is, as a role model of *eudaimonia* and all of the virtues—their authority might lie elsewhere, and to be associated with their ability to inspire cultured people with their fine deeds.

Clearly the authority of command cannot be the authority of the *junzi*, nor is it the authority of the *phronimos* in their capacity as exemplars. Given what we’ve said about the lure of the *junzi*’s excellence (*de*) and the *phronimos*’s fine (*kalon*) actions, the authority of these exemplary persons seems to involve something akin to “charisma” in the sense of an ability to non-coercively inspire others to participate in the cultivation of social harmony. While every norm has a prescriptive force, when a norm is not a law, principle, custom, but a person—which is the case with exemplary persons—that their prescriptivity has a very unique, human flavor to it. The prescriptivity of an exemplary person seems to involve a measure of charisma, which is to say that we regard every person that we take as an exemplary person with a measure of awe, respect, and reverence that we do not find in our regard for laws or principles. It seems only reasonable to conclude, like some scholars have, that the charismatic quality to the prescriptivity of exemplars, along with the mention of *kalos* and *de* in connection to the *phronimos* and the *junzi*, points in the direction of the authority of Aristotelian and Confucian exemplary persons. theirs is an authority of charisma.

Herbert Fingarette, for example, agrees with our assessment that exemplary persons are a norm in their own right. As he puts it, Confucian exemplary persons (the *junzi*), “exercise authority by their very nature” (“Efficacious Authority” 36). He goes on to account for their authority in terms of their attractive power: their ability to influence others without coercion, to inspire others to imitate them, and their ability to promote

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52 We must, of course, be rather careful with what we mean by “charisma”—as will become clear shortly.
reverence, delight, and the will to share in their own form of life (45, 41, 39). The notion that Fingarette is getting at with his description of the junzi’s ‘power to influence others in a non-coercive, inspiring manner’ is part of Confucius’s concept of the de (德) as it applies to the junzi. The general notion of de is not restricted to rulers (Analects 1.9, 8.1), nor is it something that only a few have (1.9), or only exemplary persons have (12.19, 17.13). It is, in one sense of the word, our basic endowment. But the de of the junzi is also different from the de of others. The junzi’s de is noble, exalted (chongde 崇德) (12.10, 12.21). It is the kind of de that naturally overshadows the de of any petty person (xiaoren 小人) (12.19). It shines like the North Star: a norm for everyone, and a relative reference point by which to navigate our way through life (2.1). It is a cause for praising and admiring those who have it, and a source of shame for those who are not its equal (8.1, 8.20, 2.3). If the junzi’s de does not function like charisma, truly what does?

Fingarette, however, seems to take exception to this interpretation of his work, and explicitly claims that he is not thinking of their authority as charisma (“Efficacious Authority” 38 f.). Yet by saying that the junzi’s authority is not charisma, he is simply trying to distance his notion of the junzi’s “authority as charisma” from what that notion of authority would be if we assumed the traditional sense of “charisma.” As he points out, in the New Testament the idea of charisma is a “gift of the spirit”—an extraordinary power given by God (38). This kind of idea is also present in how Max Weber uses the term. Weber thinks of charisma as something that operates “outside the ties of this world, outside the routine occupations” (Essays in Sociology 358; cited at Fingarette, “Efficacious Authority” 38). In short, the usual and traditional sense of “charisma” has it

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53 Cf. Hall and Ames 178.
that charisma is "an emphatically supra-human power than intrudes and shatters the traditional and regularized forms of the human community" (Fingarette, "Efficacious Authority" 39). Certainly Fingarette is right to see that this notion of charisma is at odds with the de of the junzi. It is the junzi, after all, who are able to focus their tradition into the present: able to carry on their culture’s dao, and extend it—not abandon it. But if we understand charisma in an fashion that places it at home in the daily activities of human society—as a power to influence others without coercion, an attractive power that carries with it the ability to inspire others to imitate oneself, and the ability to give rise to reverence, delight, and the will to share in one’s own form of life—then Fingarette certainly can be said to think of the junzi’s authority as charisma nonetheless since these are the very ways in which he describes their authority.

As for Aristotle, many commentators (such as Robert R. Louden, R.M. Hare, and Charles L. Stevenson) have spoken of the “magnetism” of the phronimos. As Louden says, the actions of the phronimos “have prescriptive force and are action-guiding for the rest of the polis.” (116). This can be explained in terms of Aristotle’s notion of kalos (“fine, admirable, noble, beautiful”). The actions of the phronimos are “right” in the fullest sense: the phronimos act and feel “at the right times, about the right things, toward the right people, for the right end, and in the right way” (Nicomachean Ethics 1106b21-23; 1109a27-29). Aristotle characteristically also speaks of such actions as kalon (1115b12; 1116a28, b2-3; 1117b9; 1110a18, b16; 1120a12, 23; 1122b6; 1123a24, 1136b22), which is to say that they are praiseworthy and admirable (1109b31), as well as to say that they are beautiful (see 1099b3). Since the actions of the phronimos are kalon,
the *phronimos* have charisma: their actions attract us with their beauty, and inspire us with admiration.

We seem entitled to conclude that at least some sense of charisma can be associated with the Aristotelian and Confucian exemplary persons. But—as Fingarette points out at the close of his essay—if charisma (even as we would like to understand it) were all there was to the nature of an exemplary person’s authority, when vicious exemplary persons attracted us we would have no way to deny their authority (“Efficacious Authority” 42 ff.). Aristotle and Confucius have different responses to this dilemma. Confucius is optimistic that the charisma of the good person (*junzi*) has more potency and influence than the charisma of a selfish person (*xiaoren*): “The *de* of the *junzi* is the wind, while that of the *xiaoren* is the grass. As the wind blows, the grass is sure to bend” (*Analects* 12.19, my translation). Aristotle, on the other hand, knows full well that the common lot (*hoi polloi*) has no taste for virtuous conduct. They do not have the palette to appreciate the actions of the *phronimos as kalon*, because—as we said above—the appreciation of fine actions comes only with a good upbringing that habituates one to take pleasure in fine actions (*Nicomachean Ethics* 1104b10). So with the many the *phronimos* can have no charisma. Instead, given that the taste of the common lot lies in base pleasures, it is people like the Assyrian King Sardanapallus, who was a hedonist of legendary proportions, who have charisma in the eyes of the many (1095b16-23; Irwin 301).

What Aristotle is showing us by saying that the charisma of exemplary persons depends upon one’s upbringing is that charisma cannot be its own justification—the claim that an exemplary person with charisma is a good exemplar must rest upon
something else, and quite possibly something in our upbringing. Initially, at least, the charisma of exemplary persons seems to rest upon what we could call their “authority of intimacy.” For example, our parents, our community’s elders, our political leaders, and the icons of our cultural heritage all seem to have some tacit charisma because of the relationship we have with them. Without this initial authority of intimacy—an authority that finds its roots in our upbringing and position within a community—it is difficult to see how they could have any charisma at all. But while the authority of intimacy may provide the initial charisma of our exemplars, if that was all we were left with, then we would be at the total mercy of the upbringing we happened to receive, and the community we happened to grow up in. In short, if the authority of exemplars were to be accounted for merely by their initial charisma, we would have no way to distinguish between good and bad exemplars. We would be morally blind—and the problems of formalism and partiality would follow.

What saves us from this fate is our ability to distinguish between matters of explanation and matters of justification. The charisma of exemplars, initial or otherwise, explains their lure: it explains how they affect us and have a prescriptive force on us. Their charisma, however, need not be taken as the justification of their authority. As we said in the first chapter, to explain a norm is not the same as to provide its normative source (this is what makes the difference, we said, between explicative and normative questions). So charisma may indeed be part of the nature or explanation of an exemplar’s authority, but that doesn’t necessitate that it is also the source or justification of that authority. One way to get at the source of the authority of exemplars—that is, the
justification of that authority, and not simply an explanation of how it works—might be
to try to identify the source of their charisma; to ask what that charisma is based on.

On two occasions Confucius is asked how one can cultivate the noble (and hence,
the highly charismatic) excellence (chongde 崇德) of the junzi. At Analects 12.21,
Confucius tells Fan Chi, “to first serve and only afterwards receive is noble excellence
(chongde)” (my translation). This is an echo of Confucius’s statement that people who
ren (仁) “establish others in seeking to establish themselves and promote others in
seeking to get there themselves” (6.30). The junzi, who exemplify authoritative conduct
(ren 仁), have a de that is established through the process of extending their sphere of
concern. We find this notion of the junzi’s de at Analects 12.10 where Confucius says, to
take “Doing one’s utmost (zhong 忠), making good on one’s word (xin 信), and seeking
out what is appropriate (yi 義) as one’s main concerns, is noble excellence (chongde).”
All of these various virtues—zhong, xin, and yi—are entailed in the process of ren (仁)—
a process of integrating others within one’s sphere of concern and cultivating a
harmonious community.

Seeing the intimate connection between ren and de, we can begin to see the social
and interpersonal dimension of the junzi’s charisma—that it is by cultivating social
harmony that they become charismatic in a fuller, nobler sense. As we read at Analects
1.12, it was the achievement of social harmony that made the sage kings mei (美): elegant,
beautiful, charismatic. Hence, the de of exemplary persons is something that is achieved
in the process of community-making. It is not something they can possess on their own,
but is realized only with others. As Confucius says, “Those with de do not dwell alone;
they are sure to have neighbors” (4.25)—not simply because exemplary persons with de
attract people to them, but because they must implicate others in what they do in order to be how they are.

As for the phronimos, their charisma derives from the quality of their actions—that they are kalon. As we said above, kalon actions are done in the right way, at the right time, etc. They are, in short, virtuous actions; and, as such, they are the actions that, luck willing, make one’s life eudaimōn. This is why such actions are good, admirable, and beautiful (Nicomachean Ethics 1099a20). But there are degrees to fineness of actions. The eudaimōn life of an individual is a fine thing, and the actions that promote it may be said to be kalon; but it is finer, Aristotle says, to promote the eudaimonia of a community as a whole:

though admittedly the good [viz., eudaimonia] is the same for a city as for an individual, still the good of the city is apparently a greater and more complete good to acquire and preserve. For while it is satisfactory to acquire and preserve the good even for an individual, it is finer [kallion] and more divine to acquire and preserve it for a people and for cities. (1094b5)

And it is the phronimos that Aristotle identifies as having this capacity to accomplish action of this greater degree of kalos: “Pericles and such people are the ones whom we regard as phronimos, because they are able to study what is good for themselves and for human beings in general; and we think that household managers and politicians are such people” (1140b5). The phronimos have the practical intelligence (phronesis) to know what the good is for their communities; and it is their ability to realize the community’s good in action that makes their actions kalon is the very strong, divine-like, sense.

What is clear about the de of the junzi and the kalos of the actions of the phronimos is that both forms of charisma stem from the exemplar’s ability to realize
social harmony (conceived of either as he and, or as a city-state’s eudaimonia). In fact it seems to be the exemplary person’s ability to realize social harmony that is the source of their authority for Aristotle and Confucius since social harmony is the source—the justification—of the de of the junzi, and the kalon actions of the phronimos. This is a very useful realization because the realization of social harmony by an exemplary person can become our standard for discriminating amongst charismatic people for the sake of identifying those who are good exemplars. Furthermore, this realization shows that, since both the junzi and the phronimos realize social harmony through non-coercive means, their authority depends upon their success at cultivating social harmony, which in turn depends upon the participation of the other people in the exemplar’s community.

Yet how must the other people participate if the exemplar is to succeed in realizing social harmony? Is it better that aspirants “imitate” or “emulate” their exemplars? To imitate, aspirants engage in a type of modeling that is concerned merely with the actions and appearances of the exemplar—to treat the exemplar as a concrete moral norm and to seek to merely repeat the exemplar’s conduct. This type of modeling, which we might call “imitation,” is quite appropriate for an apprentice to engage in if her model exemplifies a craft-skill; this type of modeling pays careful and exclusive attention to the exemplar’s actions, with an eye to merely repeat the exemplar’s conduct. But is this the type of modeling best suited for aspirants to engage in if they are to participate in the realization of social harmony? To emulate an exemplar, on the other hand, is to treat her as an abstract moral norm—as something more than merely an accumulation of actions. This type of modeling is a process by which one comes to understand the exemplar’s practical reasoning (whether it is abstract reasoning like the geometrician’s, or concrete
reasoning like the artist’s), that leads the exemplar to act the way she does. While imitation merely looks to *how* the role model acts, emulation looks to *why* the role model acts as she does.

We said above that the first of these two types of modeling—that is, imitation—conditions formalism. That is because merely repeating the actions of an exemplar can lead us to mindlessly follow their actions. So clearly if the *junzi* or the *phronimos* can be imitated, without also being emulated, then these exemplary persons have no way of preventing the formalization of their actions. I want to argue, however, that the nature of the source of the authority of the *junzi* and the *phronimos* preclude the possibility of formalism, and make emulation necessary.

For Aristotle, the virtuous conduct that the *phronimos* exemplify, which accounts for their charisma (that is, the *kalos* of their actions) and their ability to promote social *eudaimonia*, cannot be modeled by imitation alone. Why this is so becomes clear if we understand Aristotle’s distinction between craft know-how (*techne*) and practical intelligence (*phronesis*). *Technē* is concerned with production (*poiēsis*): it is engaged in an activity that takes its end beyond itself, in the product (1140b5). The craft know-how involved in shipbuilding, for instance, concerns itself with an activity of construction that has a purpose beyond the activity of shipbuilding itself. In other words, shipbuilding is engaged in for the purpose of the ship that is built, not for the sake of the activity that builds it. *Phronesis*, on the other hand, is concerned with virtuous conduct. And virtuous conduct is a genuine action (*praxis*), not a mere production (*poiēsis*). It is an activity that can be engaged in for no other purpose than to simply do it; after all, virtuous conduct is fine (*kalon*) and that alone can lead one engage in it.
Since productions are merely concerned with the end result, it doesn't matter how much understanding went into the construction. This is why, Aristotle says, we can accidentally produce some product of craft (technê) (see 1105a20)—an accidental cord of music for instance (1105a20-27). But, he says,

what is true of crafts is not true of virtues. For the products of a craft determine by their own character whether they have been produced well; and so it suffices that they are in the right state when they have been produced. But for actions expressing virtue to be done temperately or justly [or expressing any of the other virtues] it does not suffice that they are themselves in the right state. Rather, the agent must also be in the right state when he does them. First, he must know (that he is doing virtuous actions); second, he must decide on them, and decide on them for themselves; and third, he must also do them from a firm and unchanging state [of character]. (1105a27-39).

In short, virtuous conduct cannot be reduced to mere actions because it must stem from a stable habit or disposition, and because virtuous conduct requires understanding and deliberation. It follows that virtuous conduct cannot be imitated, if by imitation we think of a process of modeling that merely repeats the actions of the model. Emulation, where we internalize the reason for the exemplar's action, must be involved.

Now, as we said above, the charismatic authority of the phronimos derives its justification from their ability, as an exemplar of fine actions, to promote social harmony (or the eudaimonia of their city-state). Since mere imitation would preclude the efficacy of the phronimos's example of virtuous conduct from achieving this result, mere imitation would serve to undermine their authority. And since mere imitation is how their exemplification, and all other norms that are derivative on their exemplification, can become formalized, to rule out mere imitation is to rule out formalization. Hence, the
source of the *phronimos'*s authority—their ability to promote social harmony—precludes formalization.

The same line of argument applies to the authority of the *junzi*. The charisma of the *junzi*’s excellence draws others to them; but it is only through modeling ritual propriety (li) that they are able to promote social harmony. As Confucius says,

> Achieving social harmony (*he* 和) is the most valuable function of observing ritual propriety (li 禮). In the ways (*dao* 道) of the Former Kings, this achievement of social harmony made them elegant, and was a guiding standard in all things large and small. But when things are not going well, to realize social harmony just for its own sake without regulating the situation through observing ritual propriety will not work.” (*Analects* 1.12, modified)

Now, the cultivation of social harmony by means of *li* requires the active participation of those involved. That is to say, one cannot “follow” a *li* by merely repeating the conduct of one whom we consider to exemplify that particular *li*. The reason for this, as we argued above with the aid of Wittgenstein and O’Neill, is that every act of following a general rule requires an act of interpretation, appropriation, or contextualized application. One cannot appropriate a *li* simply by imitating one who exemplifies it—one must have practical intelligence (*yi* 義) to do so. Because the authority of the *junzi* depends upon their ability to promote social harmony, if we merely imitated their exemplification of ritual propriety, we would undermine that ability, and—hence—undermine their authority. As it is with the *phronimos*, the authority of the *junzi*—by the nature of its source in the realization of social harmony—precludes mere imitation and its concomitant formalism.

As for the matter of partiality, we saw that the authority of intimacy—a form of partiality—was necessary for getting an exemplary person’s charisma off the ground, and
giving her an initial case for being one of our exemplars. Does this mean that if we define and justify moral norms with models that oppression, and all the other possible problems that partiality conditions, are inevitable? I believe we can answer this question in the negative once we distinguish between “inclusive” and “exclusive partiality.”

Inclusive partiality is partiality that is defined by emotions, thoughts, and actions of compassion, concern, care. With Confucius we find this kind of partiality in the process of ren (仁), when we care for others (airen 愛人). With Aristotle, we find this kind of partiality in his depiction of true friendship; that is, the type of friendship where each friend wishes what is good and fine for the other, for the other’s own sake (Nicomachean Ethics, book viii). Exclusive partiality, on the other hand, is defined by emotions, thoughts, and actions that exclude others. Hatred, dislike, harming others, and a life led by selfishness exemplify this kind of partiality. It is this latter type of partiality that Mozi has in mind when he speaks of bie (別)—the ‘exclusive care’ that is defined by actively hating others, wishing to harm them, etc. (Mo Tzu 39).

Since exemplary persons like the junzi and the phronimos have authority insofar as they cultivate social harmony, their authority is linked to the preservation and cultivation of practices, affections, and outlooks that promote the welfare of others—that promote concern for others and taking pleasure in helping them. In other words, since we have shown that the authority of such exemplars is grounded in the very practices, affections, and outlooks that are definitive of inclusive partiality, we can say that partiality is indeed necessary to the exemplary person—not just in the beginning, but also throughout her impact on our own lives. And yet, for admitting that, we need not admit

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54 Confucius makes it explicit that one of the distinguishing features of the junzi is what we are calling inclusive care (see Analects 2.14, 7.31, 15.22, and 16.13).
that the evils of exclusive partiality necessarily attend an ethic built, and justified, by models because the partiality of the junzi and the phronimos is of the inclusive variety. And with this variety of partiality it is possible that we listen to others and afford them the opportunity to remonstrate with us—hence, avoiding the faults of partiality.

In the end, we can see that, despite the shortcomings of the historical Confucius and Aristotle, the exemplary persons of Aristotle and Confucius need not condition the problems of formalism and partiality. Yet the historical shortcomings of these two philosophers attests to the fact that while these problems need not arise with an ethics justified by exemplary persons, there is no guarantee that they will not arise. In other words, it is one matter to see that these problems are logically avoidable, another to actually avoid them.

In the length of this Thesis we have only intended to give a negative account of the moral phenomenon of modeling, showing that it can hold its own as a source for normativity, even in the face of such problems as partiality and formalism. A positive account of modeling seems to be the natural succession to what we have done here—an account that offers an account of the nature of moral modeling, and the necessary conditions for modeling if one is to actively avoid the various pitfalls that accompany such an empirical justification of moral norms.
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