Properties and Morality:

An Examination of the Role of Universals in Moral Ontology, and the Development of a Trope Ethic

M. J. Minehan

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PREFACE

There are three levels at which thanks need to be given.

Firstly, at the business end. Above all I would like to thank Dr. John Bacon for four years of supervision, and for being the person who originally introduced me to trope theory. Also deserving of thanks is Professor Keith Campbell, who provided valuable comments on my draft chapters. I should also acknowledge the numerous helpful comments received when delivering parts of this thesis as papers at various conferences.

Secondly, I would like to thank my family and friends. Though they did not help with the writing of the thesis, they kept me fed and amused, which is probably more important. My PhD experience was not the typical lonely one.

Thirdly, I would like to thank the wider community for tolerating my eight-year detour in philosophy when my aim has been to become a police officer. I am sure that I will be able to put my philosophy background to good use.

Finally, a pre-emptive mea culpa: I take full responsibility for any errors, omissions or patently ridiculous claims that might inhabit this thesis.
ABSTRACT

At the broadest level, this thesis aims at ensuring that developments in metaphysics flow through to those areas of ethics and political philosophy that depend on metaphysics. In particular, the thesis looks at moral properties and rights, from the perspective of the debate between universals and tropes. The thesis has two specific tasks. Firstly, to argue that many ethical and political theories presuppose, or seem committed to presupposing, the existence of universals. Secondly, to see what the result would be for ethics and, to a lesser degree, political philosophy, if trope theory were true. Central to the study is the relationship between moral properties and non-moral properties, which it is assumed involves the former supervening on the latter. The conclusion will be that while many different ethical theories appear consistent with universals, certain deontological ethical theories are more compatible with trope theory than are consequentialist ones. It is also argued that issues such as moral equality have different implications on a trope theory than on a universals one.
SECTION A: DOUBLE REALISM

In the beginning God created the heavens and the earth...
And God said, “Let there be light,” and there was light. God saw that the light was good...

And God said, “Let the water under the sky be gathered to one place, and let dry ground appear.” And it was so...And God saw that it was good.

And God said, “Let the land produce living creatures according to their kinds...”. And it was so... And God saw that it was good...

God saw all that he had made, and it was very good.

– Evidence that the good supervenes (International Bible Society 1984, p. 1).

A1 Introduction

Philosophy seeks to address many important questions. In my mind, none of these are more important than what is the world made of? and how ought we behave? These questions form the motivation behind the disciplines of metaphysics and ethics, respectively. Of the two questions, the second is the one that has the most direct relevance to our lives, but it cannot be answered without at least assuming an answer to the first question (if nothing else, who and what are the ‘we’ whose behaviour is the topic of the question?). Be it due to how they are phrased or how they are interpreted, ethical questions are of necessity laden with metaphysical assumptions.

Many present-day philosophers engage in what might be termed robust compartmentalisation. These philosophers have their ethical works, which are published in certain journals and which rely on books on certain bookshelves, and their metaphysical works, which are published in other journals, and which rely on books on
other shelves. One year they will attend an ethics conference, the next year a metaphysics conference. One semester they will teach metaphysics, the next ethics. And so may it be said that never the twain shall meet. I contend that this compartmentalisation is a sad state of affairs, and it is to the detriment of ethics in particular. How can we answer an ethical question if we don’t understand what the terms of the question refer to? How can we answer these questions if we don’t know if that to which they refer actually exists? These questions should be motivation enough to consider what I like to regard as the fault-line between ethics and metaphysics, but it is also a topic that is fascinating once explored.

There are a number of points at which the philosophical continents of metaphysics and ethics collide. The area is actually well treated when it comes to the debate over free will (is it compatible with a deterministic or indeterministic world?), and reasonably well treated when it comes to issues involved with personal identity and the self (which involves issues of obligations, among a plethora of topics). It is largely ignored when it comes to the problem of universals. Yet it was not ever thus. Perhaps the earliest practitioner of non-compartmentalisation was Plato, whose metaphysics and ethics (and much else besides) collided in the Form of the Good. G. E. Moore is another significant figure – he went to great lengths distinguishing between the non-natural property of the good, on the one hand, and garden variety natural properties, on the other. I hope that this current work will be viewed as operating within the tradition of Plato and Moore. While I disagree greatly with each, both in respect to their accounts of properties and their accounts of ethics, I value them for the fact that they recognised the connectedness between the two. The reason I consider their approaches to be inadequate is that there have been developments in metaphysics which I contend (though certainly many metaphysicians would disagree) make their approach to properties redundant. It makes sense to me that if you have an ethical view that relies on a metaphysical argument, and if that metaphysical argument is rejected, then the ethic must be regarded as being without support. Either another metaphysical argument will be required to support it, or we are in need of a different ethical view.

The development in metaphysics that is the motivator for this work is trope theory. Tropes, essentially, are particularised properties. Where, on traditional accounts, properties were seen as being universal entities that were instantiated or reflected in
objects (an object would be a particular, but its abstract parts would not be), trope theory sees particular objects as being composed of abstract entities that are themselves particulars. A chair may be composed of this woodenness, and this brownness, and this weightedness, for instance. Trope theory sees no fundamental role for the likes of woodenness itself, or brownness itself, although such properties or universals may be seen to be composed out of particular tropes by relations of resemblance or similarity (more on this later). The clearest way to distinguish between tropes and universals, though, is by way of counting. Suppose we were to observe three red objects. If trope theory is true, then we would be witnessing three redness tropes. On a universals account, however, while there would still be three red objects, and even three instantiations of redness, there would be only one redness itself. The whole world could be painted red without the addition of a single entity.

When I tell philosophers who are familiar with the metaphysics of trope theory that I am exploring ethics (and, in particular, moral properties) from a trope perspective, it is often thought that I mean to propose a rather individualistic, anti-Kantian, moral theory. This is perhaps the natural response to tropes being ‘particulars’ – it makes sense that a moral theory that is based on metaphysical particulars would involve moral particularity as well. As it happens, and as it shall be demonstrated, this is the complete opposite of what I think a trope analysis of ethics reveals.

The project attempted in this thesis is quite a broad one. It has two central purposes: 1) to establish that many ethical theories, to the extent that they rely on metaphysics, assume, or seem committed to assuming, that there are properties and that these are universals, and; 2) to explore what a moral system would (might) look like if, instead of universals, the world was made up of tropes, or abstract particulars. It is not the aim of this work to establish, or at least argue for in a systematic fashion, one theory of properties over another, although I have a clear preference for a certain version of trope theory. The breadth of this work is only increased by the many differing accounts of universals and tropes.

As I think my opening comments will have made clear, the broader goal of this thesis is to help ensure that developments in metaphysics flow through to those other
areas of philosophy that depend in some way on metaphysics. As it shall be demonstrated, many moral philosophers deal with, and rely on, moral properties, yet their use of them often seems to be uninformed by current concerns in the metaphysics of properties. This cannot be helpful if the philosophers in question aim (as they should) for metaphysically durable results (metaphysics is, after all, the most fundamental form of inquiry). Otherwise it would be like trying to fly a jumbo jet relying only on an instruction manual left behind by the Wright brothers – you won’t get very far. I hope that this current thesis will go some way in redressing this lack of metaphysical rigour regarding moral properties.

It became apparent, though, while exploring the ethical implications of certain accounts of properties, that the other metaphysical commitments one might have can also greatly influence the result. As the reader will see, this is especially true when I come to examine the role of supervenience (which itself involves many controversies) in section B. For this reason, as well as arguing for my own view on whatever the issue is at hand, I will also try (briefly) to explore the outcome that results from competing metaphysical commitments. There is a conflict in doing so: On the one hand, my task is to present, and justify, my opinion; on the other, if I don’t explore more widely than my own metaphysical assumptions, then I end up arguing something like ‘If you agree with 99% of my beliefs Then it follows that you are also committed to believing the further 1% of things that I believe’. An argument along this line does not appear to be of much use to anyone.

Now for a note on methodology. An important principle in the realm of ethics is the principle of universalizability. This is often taken to hold that individuals are obligated to be able to explain how any two or more moral claims that they may make are consistent with each other. As Bambrough notes, though, the principle has a much wider application than this – it demands that all claims (moral and nonmoral) be consistent. As he writes, “[w]henever I make two different judgments, of whatever kind, I must always be prepared to discharge the onus of showing that there are differences between cases that justify the differences in my judgment of them” (Bambrough 1966, p. 159). This thesis aims to comply with the dictates of universalizability in this broad sense.
Throughout this thesis, I shall also be taking the principle of parsimony very seriously. While a simple theory cannot be deemed correct in virtue of the fact that all other options are more complex, all else being equal, the simplest theory ought be favoured. There will be a number of occasions in this work where we are confronted by a choice between simple and more complex alternatives; invariably, this thesis will come down on the side of the simple.

Now for a brief overview.

Section A will outline the basic assumption behind this thesis, and adopts what is termed a ‘double realism’. This section will give an outline of what it means to hold a realist approach to properties, and a realist approach to ethics. Each of these assumptions is controversial. Metaphysical nominalists dispute the existence of properties, moral antirealists dispute the existence of objective values, and some moral realists dispute the existence of moral properties. This section will settle on a trope account of properties, and on an ethical standpoint that relies on properties.

In short, the ‘double realism’ is realism about moral properties, and this will be the focus of section B. This section will compare the normative ethics schools of consequentialism and deontology, and examine how these are influenced by the truth of trope or universals accounts of properties. The conclusion (relying on the principles of supervenience) will be that while both consequentialist and deontological approaches are consistent with properties being universals, deontology is much more compatible with trope theory than is consequentialism (making consequentialism compatible requires egregious violations of the law of parsimony).

After we have looked at moral properties generally, we will explore natural rights (the topic of section C). It is my contention that, though not commonly thought of in this way, such rights, if they exist, must be a sub-class of the class of moral properties. I will also be considering properties that, though clearly non-moral themselves, are relevant to morality. Of primary concern here will be that property known as ‘our common humanity’, as well as equality. This section will also provide a metaphysical analyses of the debate between positive and negative rights, with the conclusion that a theory that
holds these rights to be exclusively negative in kind is the one most compatible with trope theory.

Following this, in section D, we shall further explore what trope theory means for ethics. The first task of this section will be to examine some general ethical principles that seem to be demanded by tropes. The second task is to develop an ethical theory that is consistent with these principles. I do not pretend that the approach I develop (relying on such concepts as the ‘state of nature’ and self-ownership) is the final word when it comes to trope ethics – but I will argue that it is consistent with the general principles, and that these principles are well-founded in the metaphysics of trope theory. I think that this is enough for now.

Finally, a note on organisation. As noted, this thesis is divided into four main sections, labelled A to D. Major divisions within sections (those which might have been chapters if this work were structured differently) will be identified by the addition of a numeral (e.g. A1, B3, D4). Further subsections will be identified by the presence of a full stop and a further numeral (e.g. A1.1, B3.2, D4.5), and what might be termed sub-subsections will continue the pattern (e.g. A1.1.1, B3.2.4, D4.5.2). There is no discernible rhyme or reason that determines when subsections and sub-subsections are entered into, so don’t try to find one. I simply adopt them when I think that they are useful in distinguishing, or in demonstrating the relationship between, various points.

Let us begin.

**A2 The Nature of Properties**

When we study properties we are operating in the realm of fundamental metaphysics. Whether we are discussing universals or tropes, we are dealing with the most basic building blocks of reality. The task now is to introduce properties. As well as the properties themselves, we are interested in the objects that are made up of these, and in the relations that hold between these properties and objects. After exploring properties generally (and after considering realist and nominalist accounts), we shall explore universals and tropes in turn. Finally, there will be something said about supervenience.
A2.1 Properties vs. Predicates

Before we consider the distinction between properties and particulars, we must distinguish between properties and predicates. Basically, the former are metaphysical entities which are thought to actually exist in the world, whereas the latter are linguistic entities that are designed to refer to things in the world (a caveat is required here: Some works, especially older ones, do use the term *predicate* to refer to what we are calling *property*). There a number of reasons why this distinction needs to be made.

The first reason is that there may in fact be no properties, there may just seem to be because of the way we describe or perceive the world. For example, the red ball may not possess the property of redness (or any other property, for that matter), yet we still *describe* the ball as being red, or, in other words, we *predicate* redness of the ball; what’s more we can speak truly when we do this. This ‘no properties’ view, especially when accompanied by the assumption that properties, if they did exist, would be universals, is what is known as nominalism.

Nominalism, like most theories, comes in various shapes and sizes (and, one might be tempted to say, these different shapes and sizes contain no aspect which is literally the same). Depending on what variety of nominalism one subscribes to, nominalist either do not believe in universals or they do not believe in properties (disbelief in the latter does entail disbelief in the former, but not vice versa). This difference emerged with the onset of trope theory, prior to which the terms property and universal were essentially synonymous. In the coming paragraphs, though, I will be using nominalism to mean anti-realism about properties (be these universals or tropes).

The central task of any nominalist theory is to explain away identity while admitting commonality. Objects do not share properties, indeed there are no properties to share, and yet it does seem as though various things in the world have various things in common: The world is not composed entirely of the dissimilar. Nominalists attempt to create groups not in virtue of the abstract parts of particular objects (as realist theories of both shades attempt to do), but as compositions of whole objects. In short, what objects have in common is not shared parts, but membership within groups (where the
membership is prior to, and not a function of, the abstract parts or claims about the abstract parts of objects). We shall briefly explore some of these attempts. The classic version of nominalism, and also the most literal, is the view that two things resemble each other through the applicability of the same term to each – this is known as predicate nominalism (Armstrong 1989, p. 10). On this account, I am a human because the predicate ‘human’ applies to me; I am extended because the predicate ‘extended’ applies to me. It is in this way that we get the classes of humans and extended things. It is important to note that there is nothing made up about the classes that emerge – the predicates are thought to truly apply to the instances (the view does not say that two things become the same type of thing simply because someone labels them such). Nonetheless, it is an unsatisfactory view, and is only partly remedied by concept nominalism (which Armstrong thinks to be no better), which makes the similarity of things less dependent on words themselves, and more dependent on the concepts that the words represent (Armstrong 1989, p. 11).

Another nominalist view, class nominalism, accounts for similarity through the membership of objects in primitive natural classes (Armstrong 1989, pp. 8, 14). What do all cats, for instance, have in common? The class nominalist would answer that they are all members of the class of cats. This analysis aims to account for all supposed properties. Consider the case of a black, furry cat. Not only is it a member of the class of all cats, but also of the classes of all black things, all furry things, and even all animals, all extended things, all weighted things, etc. It is by way of classes that things can be distinguished: A black, furry cat and a black, furry rat are mostly, but not completely, members of the same classes. In a sense, it is in the conjunction of classes that we get particulars. Because group membership is primitive, not much more can be said of it. This need not be a problem, as all theories eventually arrive at some primitive or other, though some are more satisfactorily located than others, as we shall now see.

Probably the most superior form of nominalism is resemblance nominalism (I rate it superior because, of all the nominalist theories, it most closely resembles the favoured view of tropes, presented below). On this view, the primitive is resemblance, rather than class membership, and classes are formed by way of the relations of resemblance that hold between the members of a class, and only the members of that class, if the relations
are taken as a group (the class of all pink bunnies, for instance, may be formed by resemblance relations holding between various pink objects and bunnies – while there may be non-bunny pink things and non-pink bunnies, there can be no objects that are related to the rest by way of both pinkness and bunnyness that are not members of the class of all pink bunnies). But what actually is it that, say, two red things have in common? According to resemblance nominalism the answer is simple – they resemble each other. Prima face, this position has a simple, almost intuitive, appeal. As Armstrong (1989, p. 39) points out, there are degrees of resemblance, “there is a theoretical upper limit of exact resemblance and a theoretical lower limit of no resemblance at all”. Armstrong (1989, p. 40) also notes that resemblance to a certain degree is symmetrical but not transitive. If ball 1 resembles ball 2, then ball 2 resembles ball 1 to the same degree. But from the fact that ball 2 resembles ball 3, also to that same degree, nothing can be concluded about the extent of resemblance between balls 1 and 3. The exception to this rule, straightforwardly enough, would be a case of exact resemblance (Armstrong 1989, p. 41). The main problem with resemblance nominalism comes down to: In virtue of what do two things resemble? A primitive relation of resemblance seems unproblematic if we are dealing with the abstract parts of objects (which is really what the pink bunny example did), but, strictly, resemblance nominalism deals with whole objects – it denies that objects can be divided into genuine properties. Yet, surely, if two red balls resemble one another, it is precisely because of their colour or their shape.

It may seem that (superficial as the coverage has been) more time than necessary has been spent discussing nominalism, given that this thesis is assuming realism about properties. The reason for doing so should become apparent later on in this section, when we look at various attempts at providing a foundation for realism in ethics, and conclude that the existence of moral properties is the only satisfactory one. But, for now, let us continue with our discussion of properties.

The second reason for distinguishing between properties and predicates is that if it turns out that there are in fact properties, this does not mean that there will be a property for every predicate. In other words, there may be things that we can truly say about an object, yet which would not actually identify a genuine aspect of that object. For example, it may be predicated, and predicated truly, of Jack that he typifies humanity’s
transcendental aspirations. Yet it seems highly doubtful that typifying humanity’s transcendental aspirations could be one of his properties, along with, say, being six feet tall, having blond hair, and being a vegetable gardener. (It should also be noted that if properties exist, then it is likely that there are properties for which there are no predicates, but not, I suspect, properties that are incapable of being predicated). It must be admitted that intuition plays a large role in the making of judgments about what properties there actually are. Yet, while it is hard to identify a clear-cut point at which predicates cease to refer to properties, it is important that the potential for this remains. After all, things such as bunnies and atoms, on the one hand, and words on the other, are clearly very different kinds of things, even if the words in question are ‘bunnies’ and ‘atoms’.

There are further reasons why predicates should be distinguished from properties. As Armstrong observes in regards to the relation between predicates and universals (and this is just as relevant when it comes to considering properties conceived of as tropes), the existence of disjunctive predicates is good evidence of a lack of certain properties for which there are intelligible predicates. Armstrong (1989, p. 84) observes that “the expression ‘either having charge C or having mass M’ is a perfectly good predicate”, yet it is hard to see how this could be a real property. The same goes for negative properties, for instance, the property of not being a rabbit, or of not being brown-haired. While saying such things (predicating them) of a blond-haired human is quite true, it would undoubtedly be dubious to suggest that such could be properties. Just think of the possibilities that could arise from having disjunctive and negative properties. Fred is brown haired, this is a true predicate and, dare I say, a true property of him. He thus could also have the properties not blond-haired, not red-haired, not blond-haired nor red-haired, brown-haired not blond-haired, with all the different predicates being mixed together to create ever more complex properties. More formally, we could say that A is b, A is not c, A is not d, A is b not c, A is b not c nor d, and this mixing could carry on ad infinitum. Allowing such predicates to be properties would result in a hideously unparsimonious property blow-out.

A further note of caution when it comes to considering the correlation between our language and the properties of the world involves the distinction between determinables and determinates. Determinables are such things as shape, colour, size and
weight (Mautner 2000, p. 137). Determinates are things such as rectangle, circle, red, green, three metres, ten inches, five kilograms, fifty pounds. The idea is that while different determinates (such as those of the determinable colour) are related to each other, it is not because they share a common property (Audi 1999, p. 228) – red and green do not share colourness, for instance. The important thing here is that it is likely that the genuine property that we are identifying (if there is one) is a determinate. Bacon uses the example of Dion’s walking and Dion’s walking slowly. In the real world, these predicates both point out the same property, yet Dion could have been walking at another speed. Says Bacon (in respect to tropes, but applicable to properties otherwise conceived), “[w]e must recognise that, while ‘Dion’s walking’ designates a trope, it doesn’t designate it rigidly. In the actual world... it designates Dion’s walking slowly; in the other possible world it designates Dion’s walking fast. The respective walkings need not even be the same trope” (Bacon 1995, p. 5). Thus we are not wrong when we speak, for instance, of an object having colourness – we are specifying an actual property – but our specification also isn’t going to the essence of that property (after all, simply labelling a property as A identifies it to some extent).

These last few points are not arguments for or against the existence of properties; they simply suggest that we should be careful when we attribute properties to objects. As in all matters, we should employ the law of parsimony and not posit actual properties when they are not necessary. As we have seen, if greenness will suffice, then why posit colourness or not brownness nor blackness as well? Given that a study of properties is often motivated by a desire to understand how it is that our words correspond with the world, it is important that we do not presume this correspondence to be greater than it is.

**A2.2 The Concrete and the Abstract**

It is useful to consider some of the subject-matter involved in the debate over properties. Campbell (1981, pp. 477-478) has identified four terms that are especially pertinent, and which relate to the distinction between properties and objects. These are: Particular, concrete, universal, and abstract. It is usual, as Campbell notes, to pair ‘concrete’ with
'particular' and 'abstract' with 'universal', although, as we shall see below, Campbell believes that the real-world possibilities are not so limited. Uncontroversially, universal and particular cannot be paired together, because these are opposites; likewise for concrete and abstract. We are left, then, with four possibilities: Concrete universals; concrete particulars; abstract universals, and; abstract particulars.

Of these four possibilities, there is one option the existence of which is almost beyond dispute, this being concrete particulars. Such particulars are likely to be denied by nobody save the most extreme idealists, and such idealists are unlikely to be taking the debate in this thesis seriously, anyway. Concrete universals, in contrast, are the possibility the existence of which is most doubtful, and there is no real benefit to us in considering them here.

What are concrete particulars? They are the objects that make up the world. They are the books that we read, the chairs that we sit on, and the friends that we meet – they are the things that we interact with on a daily basis (although their existence is not defined by this interaction). Campbell (1990, p. 21) explains it this way: “An ordinary object, a concrete particular, is a total group of compresent tropes. It is by being the complete group that it monopolizes its place as ordinary objects are ordinarily thought to do”. Campbell (1981, p. 478) elsewhere elaborates: “A complete material body, a shoe, ship, or lump of sealing wax, is concrete; all of what is where the shoe is belongs to the shoe – its color, texture, chemical composition, temperature, elasticity, and so on are all aspects or elements included in the being of the shoe”. All of these aspects or elements are abstract entities.

We are left, then, to consider the nature of these abstract entities. As we have seen, there are two possibilities – either they are abstract universals or abstract particulars. Let us deal with them one at a time.

**A2.3 Universals**

The traditional account of properties holds that while the objects that exist in the world (tables, chairs, planets, people, etc) are particulars, the properties that they instantiate or are composed of (solidity, mass, extension, redness, etc.) are universals. Universals can
(on immanent accounts, at least) be completely present in many different places at the same time. The basic thought behind universals is best illustrated by an example: If you were to look at a tree, you would see that it contained hundreds of leaves, each of which has the same green colour. Now, if you pulled off two leaves, it would seem clear that the one in your left hand is distinct from the one in your right hand, but it is not so clear that the green in your left hand is distinct from the green in your right hand. After all, the two greens are identical, and can only be distinguished through their presence in different leaves. If you abstract away from the particularity of each leaf (i.e. if you take each instance of green to be no longer localised), then on what basis can the claim that there is more than one green be justified? Each greenness is, of course, qualitatively identical, and the two can only be distinguished numerically through their presence in other things.

Universals appear to get a lot of support from the way we speak, in particular when we speak of identity and sameness. While it is common in everyday discourse to refer to the likes of two red balls as being ‘the same’, upon prodding, we would all accept that it is qualitative, and not numerical, identity that we are suggesting. But if two balls are only qualitatively identical, does this make the qualities of each (such as redness and roundness) numerically identical? Perhaps, as it would seem odd to describe the qualities (‘qualities’, as a term, is often used synonymously with ‘properties’) as themselves being qualitatively identical (it would seem that the only way to stop a regress, here, is by making resemblance a primitive relation, which is something that trope theory does). This is essentially the traditional account, mentioned by Armstrong (1989, p. 15), that holds that “[a]ll resemblance is partial identity”; this is the view that “when things resemble, then they always have something in common, something strictly the same, identical in the strict sense”. Thus, if (on this view) there is to be any genuine resemblance in the world, then universals are required.

A central role for universals is to explain how it is that apparently distinct individuals can, in some sense, be the same. Armstrong (1989, pp. 1-2), following Peirce, used the example of a box with the following content: THE THE. This leads to querying the number of words in the box. Says Armstrong (1989, p. 1), “[i]t is obvious that the question has two good answers: There are two words there. There is only one word there”. So, can there be one word that appears twice? Is this what is meant by the same
word? Importantly, if there cannot, how can we account for the fact that it seems to make sense to talk like this? The issues here apply to the leaves we have already looked at (not just in respect to their being green, but in their having leafiness), to all the species of the earth (in what sense are all jackals the same?), and, essentially, they are present any time when we use one word (or at least the ‘same’ sense of a word) to refer to classes of things (though it would be a mistake to think, even if one is a believer in universals, that the existence of any given word implies the reality of a corresponding universal).

A2.4 Universals and Particulars

Just as important as a theory’s account of properties is its account of the relationship between these properties and the particulars that contain, instantiate or reflect them. When it comes to theories of universals, there are two sets of contrasting positions that are important to understanding this relationship, these are the debates between immanent and transcendent realism, on the one hand, and substance-attribute and bundle approaches, on the other (only this second debate finds an equivalent in trope theory). These will now be explored.

The most widely known proponent of transcendent universals (and probably of universals per se) is Plato. On his view, universals, or ‘the Forms’, exist in their own realm, which is more real than our own. The things in our world are merely imperfect reflections of what exists in this other realm. Unlike immanent universals, transcendent universals need not be wholly present in each of their instances, and, depending on how one understands ‘reflection’, need not be present at all. The geometrical example of a circle provides a good demonstration of the relationship between universals and the objects that we experience: A circle is something that is perfectly round, yet, in our world, it is highly probable that there has never been a perfectly round thing. Yet it still seems that circularity itself exists. Justice would be another example: It is something the existence of which we can easily grasp, but, again, it is likely that there has never been (in our lesser reality) something that is perfectly just. A further point to be made of Plato’s view is that in this other realm, which is often referred to as ‘Plato’s heaven’, there can exist Forms that are not ‘reflected’ in our reality. On a transcendent view,
Armstrong (1989, p. 76) points out, instantiation “becomes a very big deal: a relation between universals and particulars that crosses realms”.

Platonic realism, with both its uninstantiated universals and separate realm, was disputed, in antiquity, by Aristotle, and by many philosophers since. Plato’s view is a version of what has been termed *universalia ante res*, which translates as “universals before things” (Armstrong 1989, p. 76). Its opposite, immanent realism, is known as *universalia in rebus*, or “universals in things” (Armstrong 1989, p. 77). On this second view, only those universals that are instantiated (where this is taken broadly to include instantiation in any of the past, present or future) are held to exist, and their existence occurs (as the name suggests) in the objects of this world. It is a rare modern day metaphysician who subscribes to transcendent universals.

Proponents of the substance-attribute approach believe that it is not enough for a bunch of properties to simply coalesce at a particular point in space and time, rather a substance or substratum is required as the base for these properties, or as the hook that binds them together. This approach gets support, initially, from the subject-predicate nature of our language. Take the example of a box: It is heavy, red, it has six sides, two of which are square, and four of which are rectangular. But what is the ‘it’? Does this mean that there is the box itself, the object as distinct from its properties? This is even more pronounced in the case of people: I am aged x, I am hight y, I am such and such a weight, even I have a mind or a soul or a brain, etc. etc. etc. It is an apparently fruitless task to try to identify something (it is difficult to be more specific) that is better described as being the thing that has my parts, rather than as being a part of me. Souls, if they exist, would be a prime candidate, but there is nothing odd about the statement ‘I have a soul’ (it does not seem synonymous with the absurd claim ‘I have a me’, for instance).

The major response to the substance-attribute approach is essentially an argument from absurdity. What is the nature of this particulariser that is alleged to be at the centre of all concrete particulars? It is pretty hard to describe, because it has no properties itself (apart from those it joins together). Such an entity is often referred to as a bare particular. Certainly, there are theorists who wholeheartedly accept bare particulars, but, overall, they seem to be regarded as problematic. As Landesman (1971, p. 17) observes, “[m]any
realists find it difficult to accept the idea of bare particulars because, although they can discern qualities in the objects of experience, they claim to be unable to find the individual which has them". Armstrong favours a substance-attribute approach to universals, but rejects bare particulars. He states (1989, p. 94):

In a Universals theory, it is universals that give a thing its nature, kind, or sort. A bare particular would not instantiate any universals, and thus would have no nature, be of no kind or sort. What could we make of such an entity? Perhaps a particular need not have any relations to any other particular – perhaps it could be quite isolated. But it must instantiate at least one property.

Instead, Armstrong distinguishes between thick and thin particulars. A thin particular is a particular which has properties, but which is considered separately from them, while a thick particular is the particular and its properties. In this way we can distinguish between the two senses of particular without positing weird entities. Of course, this still leaves the question, why can’t we have a completely bare particular if we can have clothed particulars? But I think this has a (potentially) satisfactory answer – one that relies on a principle of balance. An object cannot be coloured without being extended, nor can it have extension without shape. And so, it might be said, an object cannot exist without having properties.

However serious the problems with substance-attribute approaches, there is an even greater problem with bundle theory. According to the bundle approach, an object is simply a collection of properties that reside in the same location – in much the same way that a bale of hay is nothing but a collection of individual pieces of dried grass. This avoids the issue of bare particulars, but is problematic given that the properties in question are universals: What is to distinguish between bundles that are made up of the same universals? Take the example of a red ball. If this ball is composed, say, of the properties redness, roundness, bounciness, and hollowness, and all of these are universals, then there seems to be nothing to distinguish this red ball from any other that contains the same properties. Relational properties and things like location may help, but identity does seem to be more intrinsic than this. The reason red ball A is a different individual to red ball B, doesn’t seem to be due to the fact that one is to my right and the other to my left but to the simple fact that they are different balls. This problem with the
bundle view ends up being the major metaphysical justification for the substance-
attribute approach.

As might be presumed, and as we will now see, bundle theory becomes much
more plausible when the properties that are taken to be bundled together are tropes.

A2.5 Tropes

If custom is any guide, then any discussion of tropes must be accompanied by a preamble
that lists all the other names by which they are known. So, here goes: Abstract
particulars, perfect particulars, cases, concrete properties, unit properties, property
instances, and individual accidents (Armstrong 1989, p. 113; Bacon 2002, par. 2). For
reasons already explored, ‘abstract particular’ is the term that gets closest to what I
consider a trope to actually be. Though they have never been as prominent as universals,
it has been suggested that, in one form or other, tropes can be traced back to the ancient
Greeks (Bacon 2002, par. 2). As in the case of universals, trope theories come in both
substance-attribute and bundle forms. Unlike theories of universals, though, in trope
theory the latter is the more common, as there is no longer the need to give particularity
to the conjunction of things that are inherently non-particular. As tropes are inherently
particular, there should be no doubt that their conjunction will also be particular. Two red
balls are distinct because they are made up of different tropes, and it is irrelevant how
much the tropes of each may resemble each other. Without there being something
numerically identical in each of the two balls, there is no longer the need to establish that
the balls themselves are not numerically identical (it should be noted, though, that one
can also question whether compresence alone is sufficient for establishing a concrete
particular).

Let us now, one at a time, consider what tropes mean for objects, persons,
situations and actions. All of these will be important when we later turn to ethical issues.

A2.6 Trope-Clusters: Individuals / Concrete Particulars

On a bundle, or trope-cluster, theory of tropes, an object is a collection of compresent
(concurrent) tropes, one that (probably) monopolises its location. Says Campbell (1989,
p. 21), “[t]aken together, the maximal sum of compresent tropes constitutes a complete being, a fully concrete particular. Each fully concrete individual is, of necessity, distinct from every other” (Campbell 1981, p. 483). It is in regards to compresence that a trope bundle theory is superior to a universals bundle theory. Armstrong observes, when it comes to universals, that while the relation of compresence is symmetrical (if redness is compresent with extension, then extension is, of necessity, compresent with the redness), it is not transitive. To argue for this lack of transitivity he gives the example (Armstrong 1989, p. 70) of “particular \( x \), which has properties A and B but not C, and particular \( y \), which has B and C but not A” – here we have A compresent with B and B compresent with C, but A is not compresent with C, with the result that compresence itself is not transitive. In the case of tropes, however, as “[t]ropes are not identical across different particulars… the fundamental compresence relation can be taken to be both symmetrical and transitive. It then catches all and only the tropes in one particular, which is just the result wanted” (Armstrong 1989, p. 114).

Here is how Bacon (1995, p. 35) explains (1) the possession (in ordinary language) of a property by an individual, and (2) the sharing between individuals of a relation, in a world of trope bundles:

(1) “Socrates instantiates wisdom in world \( w \) if and only if Socrates (a concurrence bundle), wisdom (a likeness bundle), and \( w \) all overlap.”

(2) “John and Mary instantiate love in \( w \), or John bears love to Mary in \( w \), if and only if John\(^1\), Mary\(^2\), love, and \( w \) all overlap.”

When it comes to objects having properties, a trope account has at least as much explanatory value as does a universals account.

**A2.7 Trope-Clusters: Persons**

In order to satisfactorily examine moral properties and rights in the coming sections of this thesis, it is important that an account of personal identity and the self be provided,
although space and time constraints require that this will be only a sketch of what such a theory might look like. Superficially, at least, a theory that regards all objects as being bundles of tropes resembles those theories in the subject of personal identity and the self that regard individuals as being merely bundles of mental and physical aspects, and as lacking (in a strict sense) identity through time (which may otherwise have been provided by a substance or substratum, or, even, soul). Indeed, Campbell (1990, p. 163) recognises this similarity. He states that

abstract particularism resolves the familiar unities of the human-scale world – natural objects, artefacts and people themselves – into collocations of tropes. [Further] it is under powerful atomistic pressure to continue that resolution into the time dimension. This yields a view [of] ordinary familiar objects, including people, as sequences of clusters of occurrences of characteristics. It accords to individuals no really deeper unity than is accorded, in ordinary thought, to a committee or any other grouped collection.

Nonetheless, Campbell (1990, 164-165) argues, of the tropes that make up people, that

Stable coincident complexes of these tropes, bound to one another by their network of internal causal links, will constitute stable, single, on-going complex entities. There is room for change, for development, for gaining and losing characteristics. Provided that change is gradual and orderly, the on-going complex remains non-arbitrarily recognizable, and so keeps its identity across time. Such complexity, such stability and such measured change are exactly what is required for the continuing, unitary self of psychology and ethics. A single, simple strictly self-identical continuant (a substance as classically conceived) is neither required nor well evidenced.

If Campbell’s argument is basically successful, and I think it is, then there is likely to be no important difference between how a trope bundle theory and substance-trope view fare when moral issues are considered. Prima facie, the substance-trope account certainly has an advantage. To the central issue of what makes a person (as with any object) the same through time comes the simple answer: It has the same substance. Substance or substratum (if, indeed, present) would seem to be the natural provider of personal identity. To the issue of what provides unity at any one time we have a similar answer: All the tropes (both physical and mental) are tied to the same substance. There
are some potentially counterintuitive possibilities – for instance, a person would be the same person on this account even if all his tropes had been changed; even if, instead of having tallness, darkness, and handsomeness, he now had woodenness, four-leggedness, and to-be-sat-uponness. But such possibilities may be considered so extreme that there must be a simpler solution to them somewhere, and it may fairly be considered that the substance-trope account need not lead to the imprisonment of chairs even in those worlds where such a metamorphosis is possible.

A2.8 Trope-Clusters: Situations

On the bundle view of tropes, the world is simply a collection of tropes, as are things within the world such as ordinary objects and people. According to Bacon, even universals are collections of tropes. I propose to consider situations likewise. So as to be clear on terminology, I take ‘situation’ to mean something different than ‘state of affairs’. Any proposition either is, or reflects, a possible state of affairs (Audi 1999, p. 876). This is true even of mundane propositions such as ‘the pen is red’. As Armstrong (1978, p. 139) writes, a state of affairs is a “particular (including higher-order particulars) having a property, or two or more particulars being related”. A situation, though, will be a sub-class of states of affairs, perhaps even a sub-class of the relations of particulars. It is difficult to be precise, but for the moment we shall say that a situation will be two or more particulars related in certain sorts of ways (I have no interest in considering the situation of two milk bottles sitting on a shelf, though the existence of such situations probably doesn’t harm my analysis).

Situations can also form parts (whole or otherwise) of other situations. Consider the case of a parade. In a very real sense, the parade itself is a situation – the cluster of tropes that compose it do, through the relations, seem to provide some degree of unity, by which the parade can be separated away from the tropes of the rest of the world. As Campbell (1990, p. 165) observes, “most social entities are rather loose clusters of the sorts of trope which arise out of complex relationships among people”. People come and go, of course. The location of the parade (and of the parts of the parade) varies greatly from start to finish. Yet, as in Campbell’s analysis for a single person, we can see that
these changes are not sudden or severe – they merely result from the gradual loss and addition of tropes.

But the parade is not the only situation in that spatio-temporal region. Within the parade itself there are countless other situations. The marching band is a situation made up of tropes. The situation of the pickpocket robbing the little old lady: Tropes. The situation of the police officer spying the pickpocket robbing the little old lady, and then giving chase: A cluster of tropes, some of which are relations, which, again, carve this situation of from the rest of the world (and even from the rest of the parade). Campbell would describe all these situations as being derivative (as he also describes all objects, because the tropes come before them), but, as he notes (1990, p. 174), “[t]he derivative is not the unreal”.

It is also possible that because it is tropes that the world is made up of, one situation may only in part compose another (perhaps, as we will see, it would be more accurate to say that some of the aspects of one situation can compose another). Consider again the case of the parade. One of the people watching the floats (let us call him Fred), and thus participating in the parade, may at the same time be making a telephone call to France. The phone call, involving the two people and the relations that exist between them, is a situation, but the person in France is not a part of the parade. It is also likely that the relations that exist between them are not part of the parade. Things get more tricky when we consider whether those single-placed tropes possessed by Fred, but which are entirely non-paradey in nature, are parts of the parade. Is Fred’s intelligence part of the parade? It is probably true to say that his fun-lovingness is. What about his remembering Spain? It seems that the parade (and, thus, any other situation) may not be that sort of entity that monopolises its location, as ordinary objects are thought to do. It would still be true to say that Fred participates in the parade, just that he does so qua certain of his characteristics (such an analysis may be useful for accounting for why some people seem to be more a part of the parade than others, although the number and variety of relations would also help).
A2.9 Trope-Clusters: Actions

In his trope philosophy, Campbell discusses *events*. These, he says, are particulars ("they occur at specific places at specific times") and they “are inherently qualitative and/or relational. They involve a happening that results in change of property in one or more objects” (Campbell 1990, p. 22). I am going to use the term *action* to refer to a specific type of event, one where the change in property is brought about by human behaviour. Roughly, I will be subscribing to Pritchard’s account, which holds that by ‘action’ we mean “originating, causing, or bringing about the existence of something, viz. some new state of an existing thing or substance, or, more shortly, causing a change of state of some existing thing” (Pritchard 1968, p. 19). The definition we settle on here is going to be important when we later come to discuss moral issues, so it is best to be specific. Pritchard thinks that for something to be an action it need not be conscious (he gives the example of someone unintentionally hurting the feelings of another), although it seems that he means that the performer need not be conscious of the *outcome* of an action in order for it to qualify. I, however, do think that for something to qualify as an action its *performance* must be done consciously and wilfully: I want to exclude changes that result from a person’s gravitational pull, for instance, or from a muscular spasm. On the other hand, I don’t want to limit it only to those occasions when a person does something after careful deliberation. As a rule of thumb, something performed with the (same or more) amount of attention that we ordinarily give to simple and mundane tasks in our everyday lives will qualify as an action.

Pritchard (1968, pp. 19-20) also makes a useful distinction between the direct and the indirect outcomes of an action. A direct outcome of an action could be something like the movement of our limbs, while an indirect outcome is one that comes from us “causing something to cause it” (Pritchard 1968, p. 20) – such as the death that occurs when a man hits his head on the floor after coming into contact with our moving limb. Thus, when we talk of the changes of tropes that result from an action, we could mean either one of these two things. While I don’t think there need be anything morally significant in this distinction, being aware of it is important nonetheless.

So actions are closely connected to causation more broadly (an action is a particular kind of cause). But it is not simply the case that we *can* explain actions in terms
of tropes, the actions actually seem to require them. As Campbell (1981, p. 481) states of causation more broadly, the “philosophy of cause calls for tropes”. Campbell gives the example of a cable. He writes (1989, p. 480):

It is the weakness of this particular cable, not weakness in general or the weakness of anything else, which is involved in the collapse of this bridge on this occasion. And it is not the cable’s steeliness, rustiness, mass, magnetism, or temperature which is at all involved. To hold that the whole cable, as concrete particular, is the cause of the collapse is to introduce a mass of irrelevant characteristics.

There are two important points here. Firstly, the example suggests that it is causally necessary to break concrete objects down into their abstract parts, which suggests that properties, generally, are necessary (Campbell demonstrates that it is not sensible, at least ordinarily, to speak of the causal power of whole objects). Secondly, these properties must be particulars – I am never confronted by rudeness itself, for instance, but by particular examples of rudeness. The same can be said for those events that I call actions: it is the particular properties of Fred (be these his intelligence, shyness, etc.) that cause him to perform certain actions, and it is further particular properties of himself (such as his solidity, extension, etc.) that cause the change in his environment. If I were to engage in conversation with Fred, it would not be intelligence itself with which I was communicating, nor with the intelligence of Bob, but with that of Fred.

**A2.10 Universals and Tropes?**

The desire for simplicity means that many theories of properties find a place for only one of universals or tropes. While I prefer this parsimonious approach, it is not the only option. There are two main ways that universals and tropes can be reconciled. The first possibility is that we admit particular properties in order to account for the presence of (metaphysically basic) universal properties in concrete particulars. On this view, instead of having particular objects instantiate universal properties, particular properties would instantiate the universal properties, and would themselves compose the object (Armstrong 1989, p. 17, writes that this view was held by J. Cook Wilson and, perhaps,
by Aristotle). The second option, favoured by Bacon, is to identify universals with bundles of resembling tropes, in much the same way that particular objects are bundles of compresent tropes.

It is worth stressing that both of these approaches still admit only universals or tropes at a basic level, allowing only a derivative role for the other. More will be said of Bacon’s approach later (B3.1.2).

**A2.11 Supervenience**

One concept that is important in both metaphysics and ethics is supervenience. Supervenience will prove to be especially important to the work here presented. Before moving on to the ethical discussion, I would like to give full consideration to the metaphysical issues involved. I will use a claim made by Campbell as a starting point.

In exploring the social realm from a trope perspective, Campbell looks at the property of *being a fountain pen*, a property which a relevant object seems to have in virtue of its context. He states (1990, pp. 170-171) that “being a fountain pen is neither a relation between the object and (specified or unspecified) people, nor is it a characteristic of the object plus the people considered together. It is a characteristic of the object which it would not have if the people did not have the characteristics they have”. So far so good. Campbell then goes on to suggest that *being a fountain pen* may be a supervenient property (he thinks this because “the combination of the object’s physical features with the people’s psychological features guarantees that the object is a fountain pen”; 1990, p. 171), and it is here that I disagree with him. Supervenience will be an important concept throughout this thesis (especially in section B), so it is important that it be defined and explained. In short, I subscribe to the account of supervenience that holds that “Properties of type A are supervenient on properties of type B if and only if two objects cannot differ with respect to their A-properties without also differing with respect to their B-properties” (Audi 1999, p. 891). A major issue in the study of supervenience concerns the debate between weak and strong supervenience (essentially, the dispute about whether claims of supervenience are held to apply to the actual world alone, or to all possible worlds).
although this is likely not important to our considerations here. Let us explore the concept of supervenience in more detail.

The standard approach to supervenience is quite localised: Beauty may supervene on a particular artwork, a tune may supervene on a particular series of notes, and a mental event may supervene on the firing of neurons in a particular part of a person’s brain. Thus, any time there is the same series of notes, for instance, there will be the same tune. While this is the version I favour, there are ‘larger scale’ approaches as well. On Global supervenience, the whole world, past present and future, is relevant. So, if you took two worlds that were the same in respect to non-supervening properties, you would find they were also the same in respect to supervening properties. More particularly, “[g]lobal supervenience makes supervening properties depend not on the subvening properties of particular individuals, but on the distribution of subvening properties over the entire possible world” (Klagge 1995, p. 65). Midway between localised and global supervenience is regional supervenience. On this view, if you had two regions that were identical in respect to non-supervening properties, then you would find that they were also identical in respect to supervening properties. My basic thought is that the supervening properties that we are interested in are clearly local properties, as I think will become clear further into this thesis (we are not so much concerned with good worlds, at least where this property is seen to literally apply to the world as a whole, as we are with good people or good situations), and so the properties they supervene on must also be local (this may be controversial, but I will shortly offer a justification). For this reason, we shan’t be considering global or regional supervenience any further.

The points made so far about supervenience have been pretty typical, but I now wish to make some comments that, though consistent with much of the thought on supervenience in the literature, will flatly oppose some of it. I argue, in short, that in order for a property to supervene upon one or more other properties, it is necessary that that property be compresent with all of the non-supervening properties on which it
depends. Furthermore, I argue that such properties must be *exactly* compresent\(^1\), upon which I will now elaborate.

There seems to be a lack of clarity in the literature when compresence and concurrence are discussed – sometimes it is said that two properties concur or are compresent when they reside in the same individual, at other times it is said that they must be in the same location. I propose that these terms be sharpened up into two categories: approximate compresence (or approximate concurrence), which will mean that the properties in question are present in the same individual, but not necessarily in strictly the same location (for example, the way whiteness and redness both exist in the same candy cane, but nonetheless are in different places), and exact compresence (or exact concurrence), where two properties not only apply to the same individual, but are present in strictly the same location (in the way that the redness and squareness of a red square take up exactly the same space, with the result that there is no place where the redness is present and the squareness is not, and vice versa). I propose that for a property to supervene on several other properties, it must be exactly compresent with each of those other properties taken as a group – i.e. if, as in Campbell’s example, the property of *being a fountain pen* is to supervene on properties of the pen and people, then it must also be applicable to the people, which, in this case, it is clearly not (as Campbell notes).

Perhaps *being a fountain pen* is simply a predicate that has no claim to propertyhood, or, alternatively, its supervenience may be accounted for by way of relational properties. Some philosophers are of the view that as well as ordinary (single-placed) properties and relations (two or more placed properties) there can also be single-placed relations, or relational properties. A typical example of a relational property would be Fred’s property of being a father. Such a property would be located in only one place (Fred), unlike the relation *father of* which would be shared between both Fred and his offspring. In the current case, it might be though that *being a fountain pen* may supervene on the intrinsic properties of the pen (such as its possessing a shaft, an ink reservoir / cartridge etc.) and a relational property such as *used* (or *designed to be used*) for *writing*. Such a relational property would make the world beyond the pen relevant, and would

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\(^1\) Another term for this could be *localised coextension*, by which it would be meant that an instance of property \(A\) and an instance of property \(B\) would occur in exactly the same location, not that wherever there is an \(A\) there is also a \(B\), and vice versa.
thus accord with the fact that context does appear to have an important role in making the physical object a fountain pen, yet the supervening property would not be a direct result of the object’s context. As there seems to be reason for doubting the existence of relational properties (except in contrived scenarios, they seem to perform no function not already performed by regular properties or relations), I am reluctant to make use of them unless it is strictly necessary\(^2\). Some more will be said on them in section B2.3.1.

A point to note about exact compresence is that it will be a symmetrical relation only if the non-supervening properties are taken as a group, and not if the base properties are taken singly. So, if supervening property \(A\) was exactly compresent with non-supervening properties \(B, C,\) and \(D\), it would not follow that any of properties \(B, C,\) or \(D,\) were exactly compresent with \(A\). It is sometimes said, for instance, that a tune supervenes on a series of notes. I suggest that the tune would exist where, and only where, the notes are. Suppose one of the notes is a \(C,\) and suppose that being a \(C\) is a property of that note; while the tune would exist wherever this instance of this property is, it is clear that being a \(C\) does not exist wherever the tune is.

Let us consider the case of supervening mental events. A common way of introducing theories in the philosophy of mind is by way of drawings. In the case of dualism, these drawings involve a human head which is situated directly below a cloud (representing the mind). In the case of interactionist dualism, there are arrows indicating that the causation works in both directions. In the case of epiphenomenalism, an arrow indicates that the causation operates in one direction only (the physical causes the mental, but the mental is causally impotent). These drawings can be particularly helpful in explaining the concepts, but these theories do not hold that the mind exists above the human head – it exists in the same location as the human brain, even though it is not to be identified with the brain. In the case of epiphenomenalism, especially, the relationship between the two is explained in terms of supervenience. If it is true that mental event \(A\) supervenes on the firing of neurons \(X, Y\) and \(Z,\) then it does not seem sensible to suggest other than that the mental event is co-located with neurons \(X, Y\) and \(Z.\) Any other

\(^2\) What we conclude in the case of the fountain pen is not particularly important (I mentioned it only to aid a consideration of supervenience generally). We could either argue that it is a supervening property that depends on relational properties, that it is a supervening property that depends only on the object’s regular single-placed properties, or that it is not a supervening property (or, perhaps, any sort of property) at all.
response (such as that the mental exists two inches to the right of the relevant neurons) would seem arbitrary.

Supervenience offers a very immediate account of the relationship between two or more properties. It is not a 'domino' account of causation, whereby one property brings about another by way of a chain reaction (in much the same way that the falling of one domino in a line of dominos causes others to fall). Rather, the supervening property comes about simply because of the occurrence of its base property or properties – nothing else is required. In other words, you cannot have the base properties without also having the supervening ones. No regular account of causation can provide the same certainty. In a standard case, an effect can fail to come about because of some intervening factor (in the case of the dominos, others may fail to fall if one is removed or if someone props one up). In the case of supervenience, nothing but the removal of one or more of the base properties can remove the supervening one.

The above points lead to two additional (and related) reasons why supervening properties cannot occur in locations other than those occupied by their base. Firstly, while it is easy to see how regular causation can account for effects in locations some distance from the cause, it is not clear how an effect can be an immediate result if it occurs even the smallest of distances away. I contend that supervening properties likewise could not immediately result if they occurred some distance from their base, and such immediacy is a requirement for something to supervene (otherwise, you would have to know not only that a base property obtained in order to know that a supervening property obtained, you would also have to know that the base property had existed for more that a specified time, however small this time may be). Secondly, if there were a distance between the base and the supervening properties, then this would imply the existence of an intermediary (something that connected the two, much as how the second of three falling dominos can connect the first with the third). It is straightforward that one thing cannot bring about another across a vacuum. Yet supervenience is thought to be much too basic to rely on intermediaries: The base properties imply or directly bring about the supervening, they do not merely participate in a causal chain that brings the latter about. The immediacy of supervenience cannot be preserved if the supervening properties exist in a location removed from their base.
Now consider the case of a beautiful artwork, and suppose that beauty is a supervening property. It does not make sense to suggest that the beauty exists anywhere other than in the exact location of the painting (or at least in a part or parts of it). To suggest that it hovered above the artwork would be absurd. If it was thought instead to exist within the eye of the beholder, or to exist as a relation between the object and an observer, then it simply would not be a property of the object to begin with and would thus not have implications for supervenience (note that these are both plausible accounts of beauty, but not of beauty that is truly a property of an object).

A corollary of the points just discussed is that supervening properties must supervene on whole base properties, and not on only parts of them (this point also follows from the fact that whole universals and tropes are thought to be the building blocks of reality). This applies to relations as well. So, if property A were to supervene on some set of single-place properties as well as relation Y, then it must supervene on Y in its entirety, and not just on the part of Y that is in one of the terms of the relation. This contention gains at least arguable support from the likely fact that properties themselves, as opposed to the objects they find themselves in, have no size (I naturally exclude from this those properties that are by nature sizey, such as ten-foot-longness). As we have seen above, though, any problems that result from this (such as having a supervening property that is broader than desired) may be resolvable by positing relational properties in addition to (or perhaps instead of) relations.

It is important to be clear that a property can be supervenient even if it results from more than one set of base properties. An example from the philosophy of mind would be pain supervening on the firing of c-fibres in humans, and on x-fibres in some other being. It does not matter how many base properties, or sets of base properties, there may be for a particular supervening property, all that is important is that this property be present whenever (and wherever) any one of those base properties or property sets are.

Another major difference between my account of supervenience and that of Campbell’s is that the supervening properties I posit are much more robust than his are. Campbell (1990, p. 37) writes, “I take it as a cardinal principle in ontology that supervenient ‘additions’ to ontology are pseudo-additions”. Also (1990, p. 161):
Bs do not merely supervene on As if, whether or not it is As that bring them into being. Bs have causal powers of their own. It is independent causal power which is the most unambiguous sign of first-class, additional reality in any emerging entity.

I, however, see no problem in supervening properties having causal power. The important thing is that such properties exist, necessarily, due to the existence of (though not due to the ordinary causal roles of) the base properties, yet are not reducible to the base properties. While Campbell does not regard supervening properties as being reducible to their base properties, they are nonetheless closer to being reducible than most theories of supervenience would allow (issues of compresence aside). This is important for what we will consider later on, where I suggest that both moral properties and rights are best conceived as supervening tropes. A causally impotent right is not a particularly pleasing one.

Let us explore this issue further. When trying to explain the relationship of certain properties with others that seem to be dependent on them, Campbell (in common with many other philosophers) allows for three options: Reduction, supervenience, and emergence. Of emergence, Campbell (1990, p. 161) offers an example (though possibly more of an analogy): “Children derive from and emerge from their parents, but do not merely supervene on them. And the best test of that is that the offspring are capable of bringing about their own effects in the causal network”. Clearly, not only do emergent properties differ in that they have causal power, they also need not be compresent with that which causes them.

One of the reasons for my emphasis on exact compresence when it comes to supervenience is because of the widespread suspicion that supervening properties may in fact be reducible to (i.e. be nothing other than) their base properties. Now, while I reject the reducibility, I accept what I regard as the reason for this reducibility’s plausibility, namely, necessary exact compresence (concurrence). If it wasn’t necessary that supervening properties be exactly compresent with their base properties (taken as a group), then the claim that supervenient properties are reducible to their base properties would not only be wrong but also absurd. To reduce A to B is to show that A is nothing but B – i.e. that A and B are the same thing, and everything is exactly compresent with
itself. (This is perhaps a little less clear when it comes to the reduction of one theory or principle to another, as this usually involves showing that one theory or principle corresponds with either a part of another, or is entailed by it, but I think this is unproblematic, as the reduction of theories is a very different thing to the reduction of entities.) The alternative would be to hold that supervening properties need not be compresent with their base. If one were to adopt this line, though, it is clear that supervening properties also could not be reducible to their base properties, where I simply argue that many of them are not. If this were true, then those philosophers who talk of reducing the supervening to the subjacent would not only be wrong, but utterly foolish (it would be like trying to reduce a blanket to a bed).

I suggest that what distinguishes an emergent property from a supervenient one is not causal power (both can have that), but the manner in which the ‘new’ property comes into being. We have seen that emergent properties need not be compresent with the properties from which they emerge (I leave open whether or not they can be). I suggest that supervening properties arise from the mere existence of the base properties, while emergent properties arise from the non-emergent properties performing their natural role or function. Perhaps it is problematic to refer to a fundamental aspect (a property) as having aspects of its own, but I think it is acceptable to refer to an instance of a property qua redness, say, as well as qua existing (or existing as redness). Consider the case of supervening mental events in a theory of epiphenomenalism (where the mental events result from physical events but are themselves causally impotent). From the firing of particular neurons we get two things: The thought ‘I will run to catch the train’, and the action of running. In this example, the firing of the neurons directly resulted in each (it did not cause the running via the thought about running). In the first case, though, this was a result of supervenience: If there were five properties involved in the neuronal firing, then there is now a sixth (at least) that is compresent with them (such that if ever properties equivalent to the first five occur, then so must a property equivalent to the sixth). In the second case, however, we have non-exactly compresent further properties –
which, I contend, are not non-supervenient in virtue of their causal efficacy, but because of their more independent place in the world.

The next step is to imagine a full-blown interactionist dualism. Here we again have firing neurons which result in compresent mental events. The only difference is that this time the mental events are causally potent. The physical still has other physical results (the firing of these neurons contribute to the firing of others, their gravitational pull exerts some influence on other physical things in the nearby region and further afield, they may still directly result in running, etc.). Suppose that the mental now causes other mental or physical events. On Campbell’s view these are now emergent properties, of a more substantial type when compared to the mental properties of epiphenomenalism, but are they really that different? It seems to me that a property’s supervening on other properties should be determined by its relationship with those properties, and not by its nature in and of itself or by its relationship with other properties or objects on the world.

A further point is that supervenient properties must exist at the same time as their base properties – if the base disappears then so does that which supervenes – while this is not the case with emergent properties. Considering again Campbell’s offspring example, it does not follow from the death of a person’s parents that that person has also died (although the death of parents can otherwise cause, or contribute to the causing of, the deaths of their children). This difference is much more central to the distinction between emergent and supervening properties than the issue of whether or not supervening properties can have causal powers.

It is interesting that Campbell places this importance on causal power as the distinguishing feature between supervenience and emergence, given that it is at least plausible that there could be non-supervenient, non-emergent base properties that are causally impotent. Further, it would seem as though there could be, if I am correct about the importance of compresence for supervenience, emergent properties (that are not compresent with that from which they emerge) which are causally impotent. While I am going to deal with (what I allege to be) the causal nature of supervening moral properties more fully later on, for the moment I wish to make clear exactly what I mean by such

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1 It has been suggested to me that one property’s emerging from another may depend on the laws of nature, whereas a property’s supervening is more fundamental and not dependent on the actual laws of nature (it would occur however these laws were). This would seem to be consistent with my approach.
properties having causal power: They can bring about (or contribute to the bringing about of) other (non-relational?) properties (be these moral or otherwise) in objects and situations not entirely compresent with themselves. The moral property *to-be-done*ness (we shall examine it later) need not physically cause someone to do something – it is enough that it obligates them to do it, where obligation is some sort of property that would not exist otherwise.

Having examined the dispute between universals and trope accounts of properties, and having explored the issue of supervenience, we now have all the metaphysical tools that will be required when we move to section B. Some background in moral realism is necessary though, and it is to this that we now turn.

### A3 Moral Nominalism

Having examined different theories of properties, and having concluded (if not adequately justified) that metaphysical views that posit the existence of properties are superior to those that do not, and that a trope account of properties is superior to a universals account, we turn now to our second realism. I identify three categories of views relevant to moral realism: Anti-realism about ethics, anti-realism about moral properties but not about ethics, and realism about moral properties. In this current section, the inadequacies of the no-properties moral realism will be explored and realism about moral properties will be introduced. The immediate aim will be to make plausible the view that a genuine moral theory requires genuine moral properties. For the moment, no distinction will be made between universals and tropes.

I have given a new name to those versions of moral realism that deny moral properties – *moral nominalism*. This would not be a very good name if the term ‘nominalism’ wasn’t already well established in metaphysics, for the moral nominalists are not asserting that there are no true ethical views (as the anti-realist does), or that ethical terms exist in name only. However, such views, while admitting the existence of values, nonetheless deny that such values are independent properties, just as a metaphysical nominalist may deny the existence of redness (or rednesses) and yet accept
the truth of the existence of red things. To fully appreciate moral nominalism, and its inadequacies, we must consider the other positions in the moral realism debate.

A3.1 Moral Facts

The one thing that all moral realists have in common is that they all hold that there are such things as moral facts. As Brink (1989, pp. 17-18) rightly notes, moral realism is best viewed as closely associated with metaphysical realism, as the ‘facts’ in question must, of necessity, have some metaphysical basis. Smith identifies some consequences of moral realism, notably that moral judgments are objective. He notes that this objectivity involves “the idea that moral questions have correct answers, that the correct answers are made correct by objective moral facts, that moral facts are determined by circumstances, and that, by moralizing, we can discover what these objective moral facts are” (Smith 1991, p. 401). I think that this is a good summary of the implications of the objectivity of moral judgments (my one dispute is that I do not think that the fact we can discover moral truths actually follows from their being objective, although, given that I think we can discover them anyhow, this is not a big issue).

Smith then highlights the metaphysical implications of this objectivity. He writes (1991, p. 401), “amongst the various facts there are in the world, there aren’t just facts about (say) the consequences of our actions on the well-being of our families and friends, there are also distinctively moral facts: facts about the rightness and wrongness of our actions having these consequences”. There is no consensus among moral realists as to what these facts might be.

Smith also makes an interesting distinction between moral irrealists / anti-realists and moral nihilists (note that I will be using the term ‘irrealist’ when discussing this distinction; ‘anti-realist’ will continue to be used in a broader sense, covering both the irrealists and the nihilists). Moral irrealists deny the existence of moral facts, but adopt a desire-expressing account of moral claims which allows them to still make sense (Smith 1991, pp. 402-403). On this approach, “one ought not commit murder” translates as “I (the speaker) dislike murder”, and “it is good to help little old ladies cross the road” becomes “three cheers for helping little old ladies cross the road”. Brink (1989, p. 19)
notes that such claims are interpreted as being “primarily expressive or prescriptive rather than descriptive”. Moral nihilists, on the other hand, not only deny the existence of moral facts, but also deny that there is anything sensible about moral claims in the absence of such facts. According to Smith (1991, p. 403), “[t]he nihilist thinks that without moral facts moral practice is all a sham, much like religious practice without belief in God”. I have taken this brief moment to introduce moral nihilism not (obviously) because I think it is the correct position, but because I think it is correct about the consequences of there being no moral facts. The irrealist alternative is unsatisfactory, as we shall now see.

Moral irrealism may at first sound plausible, and can no doubt accommodate some of our ‘moral’ claims (sometimes when we say “Fred is a bad person”, we really do mean that we simply dislike Fred), but, as has been well-established, there are many claims that it fails to accommodate. A competent English-speaker will insist that “theft is wrong” and “I disapprove of theft” are not synonymous. “Theft is wrong” is such a claim that only it or its opposite can be true. There is nothing contradictory in person A liking theft and person B disliking it (both of these claims can be true at the same time). On the other hand, there is something incompatible in person A believing that a particular ball is red and person B believing of the same ball that it is not red – only one of them can be right. When we make moral claims we generally mean to be saying something of the second kind (which involves facts separate from our preferences). Moreover, there is clearly a disagreement between the claims “abortion is wrong” and “abortion is not wrong” that does not exist between “I like chocolate ice cream” and “I dislike chocolate ice cream”. People do not picket outside ice cream parlours in the same way they do outside of abortion clinics. Moreover, the difference seems to be qualitative rather than quantitative. Something fundamentally different is being expressed by the claims about ice cream and abortion, the differences in behaviour that are associated with these claims cannot be accounted for simply by suggesting that a speaker may mildly dislike chocolate ice cream but really dislike abortion (even an individual with a deadly allergy to chocolate ice cream is unlikely to join a picket line for this reason alone).

As an aside, it is worth mentioning that along with those who deny the existence of moral facts, Brink identifies some other enemies of moral realism. These are “constructivists or idealists in ethics who are cognitivists because they recognize the
existence of moral facts and true moral propositions but who claim that these moral facts are constituted by some function of our moral beliefs” (Brink 1989, p. 18). Moral relativism (of cultural or individual varieties) is a prime example of this. We will not be exploring this position in any detail, but I wish to distinguish it from my own view. In section D, I will suggest that moral properties depend on mental properties for their existence (as a moral property is supervenient, it requires at least one mental property in its base). Here is the distinction: In the case of relativists, moral truths follow from the content of one’s beliefs (or from the content of the beliefs that are prevalent in a culture), in the view I present, the truths follow from the mental life per se. As the moral view I present is a broadly deontological one, deontological moral properties would come into existence even if the individual they were instantiated in was having consequentialist thoughts. I make this distinction now to avoid confusion later.

The first conclusion I wish to make, then, is that moral terms can only have (moral) meaning if there are moral facts (note: the claims can have meaning and still be wrong, as will be so for one of the sides in the abortion debate). I now wish to suggest that moral facts require moral properties.

A3.2 Moral Claims and Moral Properties

It will be recalled that in section A2.1 I refused to take the extreme position of asserting that every true claim is true in virtue of its terms corresponding with particular existing properties. Instead, I suggested that there can be true predicates which do not match with actual properties. It may be remembered that I used the example of Jack, and observed that he typifies humanity’s transcendental aspirations. I suggested that while this predicate may well be true, it does not refer to an actual property of Jack. I now wish to qualify this position, somewhat. While it is true that all true claims need not refer directly to real properties, their truth is nonetheless dependent on the properties that exist in the world. Consider an example. In section D of this thesis I will argue that there is no property of being a human being, yet this does not mean that the claim “Jack is a human being” is false. Its truth, I contend, comes from the fact that ‘human being’ designates a
particular set of compresent properties, so it is enough that these exist. Statements such as "the crowd is rowdy" can also be true, despite the fact that there may be no property of being a crowd, and thus no property of rowdiness that attaches to the crowd. The statement can be true because a crowd is, by definition, a large number of people in the same general location (and various properties can make this true) and because rowdiness can refer to various properties that are associated with participants in the crowd, such as laughter and shouting (in this case, the terms 'crowd' and 'rowdy' can be viewed as non-rigid designators). Another example would be the mind. It is probably not true that each human instantiates the property of having a mind, yet it is true that we have minds precisely because we have mental properties more broadly (I cannot establish that we do not have such a mind property, but it would seem to be redundant once we have the various mental parts). It is important that this distinction be made clear, because much of what follows will depend on it, although the point needs some refining.

Now to sharpen up my position. I suggest that the truth of all empirical propositions relies on the existence of properties of the same sort as the predicates in the propositions – more precisely, they rely on the existence of properties that are of the sort the property hinted at by the predicate would be if, in fact, it existed. Claims that are inherently mental in nature, for example, require mental properties. If one has dualist inclinations when it comes to the mind-body problem, then the truth of the claim that such-and-such a person has a mind does not follow from the existence of the physical properties of that person (it requires the likes of beliefs, desires and feelings). Likewise, claims that refer to physical things require physical properties (the truth of the claim that a particular fat person is immovable – where immovability is not a property of the person – depends on the bulk of that individual and on the physical surroundings, not on the individual’s mental life). Finally, claims of a moral nature require moral properties.

What this means is that particular moral claims can be truthful (at least in a sense) even though their terms do not identify existent properties. Suppose I claimed of a Nazi gas chamber that "this place is bad". Now, 'bad' identifies a moral property, but I contend (and will elaborate on in section D) that moral properties are not instantiated in buildings (a property evaluation would not reveal badness along with extension, solidity and, say, greyness). However, the relationship between the gas chamber and many bad
incidences is enough for the claim to be truthful. Likewise with the claim "it is good to save lives". I contend that the actual act of life-saving is unlikely to contain the property of goodness but that (and again, this will be explored further in section D) as life is a good thing, the act of saving a life does produce good consequences. It is my contention that this, also, is a close enough association between words and world.

One caveat is necessary. In later sections, much will depend on the view that moral properties are supervening properties – some of them will even be held to supervene on others. I argue that when examining properties themselves, as opposed to claims made about these properties, great precision is required. While the examples mentioned in the previous paragraph are enough to give truth to propositions, they are not precise enough to have any metaphysical significance (if, as I will argue in section B, certain prescriptive moral properties supervene on value properties such as goodness and badness, then for the prescriptive properties to be instantiated it is necessary that the value properties exist in the place specified, it is not enough that there be broadly true propositions that involve them). I mention this now to avoid confusion later.

I now wish to give some further consideration to the flaws of what I have termed moral nominalism (doing so will provide us with what I consider to be a strong negative argument for moral properties). The best way to do this is by considering a prominent example of it.

**A3.3 Nagel's Normative Realism**

I mentioned above that Plato was probably the first philosopher to combine realism in ethics with metaphysical realism. In this respect, modern philosophy owes a great debt to him. Yet this is not to say that the works of Plato play a constructive role in current debates. Indeed, when it comes to moral realism, Plato has become something of a punching bag, and has come to resemble an orphan spurned both by his realist successors and by his anti-realist opponents. It is not uncommon for theorist to argue either that moral realism requires something like Plato's Forms, which, for one reason or another, are to be rejected (e.g. Mackie – we will be considering his argument further in section
B), or that ethical values are real, but, again, do not require the truth of something like Platonic realism (which is the approach taken by Nagel). It is interesting that both varieties of moral property sceptics use Plato as their properties benchmark. With no disrespect intended to Plato, what such theorists are essentially doing is selecting the most extreme example of realism about properties and using its untenability as a justification for not considering any moral properties. When it comes to examining moral realism, it is a pity that views of the sort that Armstrong (1989, p. xi) would call ‘moderate Realism’ are seldom considered (I make no assumption that Armstrong himself would be sympathetic to there being genuine moral properties).

Let us consider Nagel’s position. Nagel adopts what he regards as an objective approach to ethics. He believes that moral values are real, and not reducible to anything else (Nagel 1986, p. 139). Nonetheless, he refuses to adopt the “inappropriate metaphysical picture” that is Platonism (p. 139). According to Nagel (p. 139), “[n]ormative realism is the view that propositions about what gives us reasons for action can be true or false independently of how things appear to us”. It does not involve “an extra set of properties of things and events in the world” (p. 140). Values, he seems to suggest, are “not a new aspect of the external world… but rather just the truth about what we and others should do and want” (p. 139).

Given that Nagel falls into the category of accepting ethical realism but denying moral properties, a large part of his task is to demonstrate that ethical realism can be grounded in something other than properties. To this end, he takes issue with Mackie, arguing that, “[h]e clearly has a definite picture of what the universe is like, and assumes that realism about value would require crowding it with extra entities, qualities, or relations, things like Platonic Forms or Moore’s non-natural qualities. But this assumption is not correct” (Nagel 1986, p. 144). Instead, Nagel argues, “[t]he objective badness of pain, for example, is not some mysterious further property that all pains have, but just the fact that there is reason for anyone capable of viewing the world objectively to want it to stop” (p. 144).

As keen as he is to assert the existence of genuine values, Nagel is harsh in his denunciation of what they are not, as is demonstrated by his claim that “[t]he view that values are real is not the view that they are real occult entities or properties, but that they
are real values: that our claims about value and about what people have reason to do may be true or false independently of our beliefs and inclinations" (1986, p. 144). One of the main tasks of this thesis is to demonstrate that there need be nothing 'occult' about moral properties. While I shall certainly be exploring the possibility that such properties may be transcendent universals of the Platonic ilk, I think that the best explanation is something more down to earth: Localised properties, tropes, that supervene on people and the situations they find themselves in. The scope of the trope, or moral property otherwise conceived, need not be any greater than Nagel's values and reasons, and it need not be any more mysterious.

But let us look more closely at Nagel's argument. Butchvarov (1989, p. 7), quite rightly, accuses Nagel of putting the cart before the horse, given that the latter "finds badness, if understood as a property that all pains have, mysterious... but does not so find what from a logical standpoint is also a property, namely the property of every pain of being such that there is reason for anyone capable of viewing the world objectively to want it to stop". Butchvarov argues that the reality of this second property only makes sense if one has already admitted the first. If pain is an occult property, then the one Nagel identifies should be occult also.

Nagel (1986, p. 139) argues that an objective value must not be reducible to "some other kind of objective fact". I am inclined to agree with this, but am not convinced that the 'reasons' and 'values' he presents are not so reducible. As we have seen, Nagel (1986, p. 139) seems to equate objective values with true propositions about how we should behave and about what our desires should be (this seems to be the nature of his reasons). But, to my understanding, there are only two ways (or some combination of the two ways) that a proposition can be true: It must either directly correspond with the external world, or it must be the result of sound reasoning (either completely a priori, or with premises that correspond with the world). If Nagel takes the second approach, then though these moral propositions may not be reducible in the strict sense (i.e. it is likely that they cannot be identified with any other single proposition), it seems nonetheless that their truth is entailed by the truth of other propositions, which is what is needed for the reduction of theories or principles, as opposed to the reduction of entities. If, on the other hand, it is the external world that supplies the truth of the value propositions, then there
must be something in the world that corresponds with these values. Genuine value properties would be the natural candidates here. It seems that Nagel, in trying to make values out of propositions alone, ends up depriving them of any real meaning. If a value proposition’s truth is not grounded in the external world, it is hard to see how it can be an example of realism (it does not seem to meet even Nagel’s weak standard).

The strangest thing about Nagel’s argument, though, is that in his effort to avoid Platonism about values, he seems to adopt an almost Platonic view of other entities, such as pain (he uses the objective badness of pain as his main example). For instance: “The pain can be detached in thought from the fact that it is mine without losing any of its dreadfulness. It has, so to speak, a life of its own. That is why it is natural to ascribe to it a value of its own” (Nagel 1986, p. 160). Also: “Of course [the sufferer] wants to be rid of this pain unreflectively... But at the same time his awareness of how bad it is doesn’t essentially involve the thought of it as his... My objective attitude toward pain is rightly taken over from the immediate attitude of the subject, and naturally takes the form of an evaluation of the pain itself...” (p. 161). I do not see how Nagel can dismiss badness as occult-like, and then develop such a demonic account of pain. Indeed, pain, as Nagel presents it, seems to be a strange hybrid between a Platonic Form and an abstracted particular, or trope. Indeed, his view seems to be that pain itself (or individual pains) contains some objectively negative aspect (there is more here than just the claim that a person in pain has reason to be rid of it), much as Plato’s Form of the Good not only endorses certain things but compels those who are aware of it to act in a certain way, which seems to fly in the face of his stated ambition (we have seen what Butchvarov has to say about this).

The only conclusion that I can reasonably draw is that Nagel’s attempt to admit values but reject value-properties is unsuccessful. Again, the argument presented here is not designed to be conclusive; realism about moral properties is one of the assumptions of this thesis, the task of which is to explore what they would be like assuming they do exist. Nonetheless, an understanding of the basic arguments for and against their existence is useful. To cap up, my argument against the moral nominalists generally is that while it is the case that particular claims (moral or otherwise) do not require perfectly
corresponding properties in order to be true, nonetheless they do require the existence of
certain types of properties in order to have truth. Physical claims depend on physical
properties, mental claims depend on mental properties, and, finally, moral claims depend
on moral properties. It is to moral properties that we now turn.
SECTION B: MORAL PROPERTIES

It was argued in the previous section that moral terms, if they are to have any real meaning, must correspond (even if imperfectly) with genuine moral properties – properties that exist in the world, and not just in the mind on the beholder. In this section, we shall be looking at the role moral properties play in some specific ethical theories, and it will be argued that these theories tend to rely on such properties being universals. We shall also examine what difference it makes if we challenge this assumption and make moral properties tropes instead. It is important to note that properties, when they are dealt with in ethics, tend not to be treated with the same rigour as they are when they are considered in metaphysics. This means that we shall be dealing with terms and arguments that are not as clearly developed as our earlier metaphysical inquiry would have led us to hope for, even though properties such as ‘the good’ have been spoken of for thousands of years.

To recap, my starting assumption, when it comes to the subject matter of this section, is that a true theory of moral properties should be consistent with a true metaphysical theory of non-moral properties. A necessary, though not sufficient, condition for striking the true theory, then, is that the theory of moral properties that we espouse have good metaphysical foundations. The fundamental principles that apply to non-moral properties, in other words, should also apply to moral properties.

B1 Moral Properties and Universals

B1.1 Relevant Theorists

B1.1.1 Moore

When looking at moral properties, the natural place to start is with Moore. In fact, we shall be using him as somewhat of a case study in this section, because, for all the inadequacies of his theories, there is more of a connection between the metaphysical and ethical components of his view than is evident in the work of almost any other philosopher.
The most important point (for us) when it comes to understanding Moore is that he believed in the existence of moral properties, and he believed that these properties were universals. Beyond this, there is actually some confusion as to his position. Surprisingly, I have come across several present-day philosophers who attribute to him strikingly different views (and I don’t think these differences can be entirely explained simply by pointing out, correctly, that Moore changed his views over time). It is instructive to consider each of these (although I will be arguing that whichever of the positions he held, there is no great difference for our study).

Probably the most straightforward interpretation is that of O’Connor (1982, p. 136), who asserts that “Moore took it for granted that there are universals and that nominalism was an untenable position”. Indeed, says O’Connor (p. 148), he regarded the existence of universals as being “part of common knowledge”. Nonetheless, he was unsure about the nature of these universals. If O’Connor’s understanding is correct, it should be apparent that Moore was operating under an outdated paradigm: No universals... then nominalism must be true. Likewise, if it was felt there was a need for properties: Nominalism must be false... so universals must exist. If this was Moore’s approach (though we will see that Hochberg gives cause for doubt), it does not reflect poorly on him. Writing about a century ago, he could be forgiven for not being familiar with alternative positions, such as trope accounts of properties. If this same reasoning were displayed today, however, we would be justified in being quite critical of it.

The polar opposite of O’Connor is Hochberg (1962, pp. 365-395), on whose radical account Moore was actually a nominalist in all areas except for ethics, where he allowed for only one type of genuine universal, non-natural properties (the difference between natural and non-natural properties will be discussed below). Further, Hochberg contends (p. 373), Moore believed that this one type of universal did not exist (in the sense that existing meant ‘being in time’). I find Hochberg’s suggestions fascinating, and, while I have not formed an opinion as to whether Moore actually did hold this view, I do not think that it is in any way absurd. I can fully understand the appeal of a broadly

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4 Evidence against O’Connor’s interpretation is the fact that Stout was writing about abstract particulars during the period that Moore was active, and that the two collaborated on a symposium-style discussion of the issue (Moore and Stout 1923). It seems, though, that much of Stout’s work on this issue was written after Moore’s earlier pieces.

5 See especially p. 370
nominalist metaphysical theory that nonetheless allows for a few abstract entities (perhaps the likes of mental and moral properties could supervene on concrete particulars).

The final option to be considered is that of Butchvarov (1989, pp. 61-63), according to whom Moore believed, on his revised view, in both universals and particular properties. Essentially, the particular properties were thought to instantiate the universal properties. Butchvarov (p. 61) quotes from Moore’s article “Identity” (1901, p. 141), “[When we say,] ‘The red at this place is the same as the red at that place’... we are asserting that two things numerically different have the same relation to one universal (a particular tint of red)”. Though both types of properties are acknowledged, the fact that particular properties instantiate universals would seem to make the universals the more fundamental of the two.

This debate over Moore’s views on universals is fascinating, but is not really connected with our purpose. All that we need concern ourselves with is the lowest common denominator: Moore believed that there were moral properties, and that these were universals. We need not worry about whether there were particular properties as well, and whether natural properties were also universals, or exactly what it meant to exist or be in time (not to exist does not suggest irrelevance or fictitiousness; see Moore, 1903, pp. 110-113). Importantly for us, Moore refers to the ‘Universal Good’. While there are many things this term could mean, from what we have just considered I think it is fair to conclude that for Moore the ‘Universal Good’ is a universal property. Let us now consider what he had to say about it.

In particular, we will be examining one section of the Principia Ethica, where Moore takes issue with Sidgwick on egoism. Sidgwick found ethics to be in a bit of a muddle. He put great weight in common sense, yet believed that a hybrid of utilitarianism and intuitionism, on the one hand, and egoism on the other, were both compatible with common sense, despite the fact that they were not reconcilable with each other (Audi, 1999, pp. 843-844). Moore (1903, p. 99) quotes Sidgwick as asserting that an egoist “may avoid the proof of Utilitarianism by declining to affirm... implicitly or explicitly, that his own greatest happiness is not merely the ultimate rational end for himself, but a part of Universal Good”.

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The subject of this debate (egoism vs. utilitarianism) does not really concern us, but the discussion of the Universal Good does. Moore replies (p. 100),

That a thing should be an ultimate rational end means, then, that it is truly good in itself; and that it is truly good in itself means that it is a part of Universal Good. Can we assign any meaning to that qualification 'for himself', which will make it cease to be a part of Universal Good? The thing is impossible: for the Egoist's happiness must either be good in itself, and so a part of Universal Good, or else it cannot be good in itself at all: there is no escaping this dilemma.

Let us see what Moore has to say about the nature of this good. He writes (p. 7),

My point is that 'good' is a simple notion, just as 'yellow' is a simple notion; that, just as you cannot, by any manner of means, explain to any one who does not already know it, what yellow is, so you cannot explain what good is.

He then observes that a more substantial definition is only possible with things that are complex. He gives the example of a horse, which can be defined in terms of its "many different properties and qualities". But when you break it down, you will not be able to define these properties and qualities.

Of further relevance is Moore's discussion of good conduct (p. 2),

For 'good conduct' is a complex notion: all conduct is not good; for some is certainly bad and some may be indifferent. And on the other hand, other things, beside conduct, may be good; and if they are so, then, 'good' denotes some property, that is common to them and conduct...

What does the above, taken as a whole, tell us? It tells us that Moore regarded good as being a simple property, that this property (like all others?) was a universal, and that it is this one universal property that is present in any situation, person, action, property or thing that is good.
B1.1.2 Butchvarov

Of more recent significance are the arguments of Butchvarov. As way of a starting point, Butchvarov (1989, p. 2) rightly observes that whatever primacy we may give to the study of ethics, "[l]ittle in it can be done that would be of value except on the basis of an adequate phenomenology, metaphysics, and epistemology". Needless to say, we are interested in his metaphysics. Here is what Butchvarov (1989, p. 15) had to say in an early chapter of his main work on ethics:

But the metaphysical assumption that there are properties in the sense of universals will not be defended here. The defense of our ethical theory would be successful if it could be questioned only by denying this assumption. We may note that the alternatives to the theory of universals provided by strict nominalism and by the various resemblance theories are seldom adopted today by writers on the problem of universals.

It seems that Butchvarov means to include tropes when he refers to "various resemblance theories". Now this starting assumption of Butchvarov's is a controversial one (although not, perhaps, as controversial as I would like), but it would be wrong to criticise him for this. No philosopher can cover all his or her bases in any given work, and Butchvarov has done his fellow philosophers a service by making clear the assumptions that his theory relies on. It should be noted that Butchvarov has written major works on metaphysics, and in these he provides a justification for his preference for universals over tropes. In one of these (1979, p. 184), before presenting his argument, he made clear that "I do indeed take it for granted that there are qualities, but not that qualities are universals". It is interesting to note that when it comes to his metaphysical works, Butchvarov's approach involves pitting the arguments of Moore and Stout (a trope theorist) against each other (1966, pp. 76-85, and 1979, pp. 184-211). I cannot but lament that a philosopher who treats trope theory so seriously in his purely metaphysical works does not deal with it in his metaphysical ethic. Though Butchvarov, himself, would not be sympathetic to such an approach, it would have been interesting to see what he would regard a trope ethic as involving.

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6 It is in Chapter 7, "Qualities", pp. 184 - 211, that he argues for a universals over a trope approach.
But enough of this wishful thinking, what does Butchvarov have to say about moral properties? Firstly, he assumes (1989, p. 13) that if such a thing as goodness is to exist (i.e. if we are to be realists about goodness), then it must be a property. Likewise (p. 12) for “rightness, and morality, and their contraries” (though he thinks that these are not primitive, being in some sense derivative of the good; this is quite different to the approach I will be adopting). Secondly, where Moore tended to attribute goodness to concrete entities, and occasionally to other abstract ones, Butchvarov is inclined to attribute it solely to other properties. He gives the example of happiness (p. 14):

We may say that a certain person’s life is good, but we may also say that happiness as such, that is, the property a life may have of being happy, is good. Now, I suggest, a person’s life can be said to be good on the grounds that it is happy only if happiness itself can be said to be good, and in general a concrete entity can be said to be good only on the grounds that it has some other property or properties that themselves have the property of being good.

He argues (p. 14) that this is “the only clear sense of describing the goodness of concrete things as a consequential or supervenient property, not an intrinsic property” (my disagreement with this should become apparent as we progress).

**B1.1.3 Mackie**

To fully appreciate an approach, it is useful to consider what its opponents have to say. Mackie is opposed to the moral objectivity of Moore and others, and also to the notion of moral intuition. In this context he writes the following (1977, p. 40):

Plato’s Forms give a dramatic picture of what objective values would have to be. The Form of the Good is such that knowledge of it provides the knower with a direction and an overriding motive; something’s being good both tells the person who knows this to pursue it and makes him pursue it. An objective good would be sought by anyone who was acquainted with it, not because of any contingent fact that this person, or every person, is so constituted that he desires this end, but just because the end has to-be-pursuedness somehow built into it. Similarly, if there were objective principles of right and wrong, any wrong (possible) course of action would have not-to-be-doneness somehow built into it.
Plato’s theory of the Forms is probably the original, and almost certainly the most widely known, theory of universals. Plato’s theory, as the quote from Mackie suggests, held that awareness of ‘the Good’ would also compel one to act as ‘the Good’ commanded. I should stress again that Mackie regarded his argument as a refutation of both the view that there are objective moral properties (which he apparently thought would have to be universals) and the view that moral properties could be apparent by intuition (he stated, p. 3, that “the suggestion that moral judgments are made or moral problems solved by just sitting down and having an ethical intuition is a travesty of actual moral thinking”). As interesting as this second problem is, we are really only concerned here with the first.

Mackie is of interest to us because he clearly adopts a major prejudice against which this thesis is arguing – i.e. he assumes that if there are moral values then these must be universals. This assumption (though prevalent, I argue), is rarely made so explicit. But he is also of interest because, in mentioning ‘to-be-pursuedness’ and ‘not-to-be-doneness’, as well as ‘the Good’, he gives an indication of what additional moral properties may be required. It is to an exploration of this issue that we now turn.

**B1.2 What Moral Properties are There?**

When it comes to moral properties, there are two important distinctions for us to be aware of, that between naturalism and non-naturalism, on the one hand, and value and prescriptive properties, on the other. We will examine these in turn.

**B1.2.1 Naturalism vs. Non-Naturalism**

When discussing moral properties it is typical to distinguish between natural and non-natural conceptions of such properties\(^7\). Non-naturalism, essentially, is the view that there

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\(^7\) I have always found this terminology somewhat counter-intuitive, mainly because to me the term ‘naturalism’ seems to suggest something naturally exists. Natural rights, as we will see later, are rights that are believed to exist in nature. If we transferred words from this section to rights, we would be talking about non-natural rights, and mean by this rights that are fundamental and not granted by man. But it is not my intention here to instigate a terminological debate, and the reason I mention it is that, to me, if I assert that moral properties exist, then I am asserting that they are as fundamental as any other real-world
are moral properties, and that these are distinct from other (so-called natural) properties. Non-natural properties may include goodness, or badness, or to-be-doneness, or rightness. Perhaps these moral properties supervene on natural properties. Naturalism, on the other hand, says that what we refer to as moral properties simply are other properties. Pleasure, for instance, could be regarded as a natural moral property on a utilitarian theory. The moral properties already mentioned by this thesis tend to have been non-naturalistic ones.

The distinction between natural and non-natural properties is one that is hard to make metaphysically, but candidate properties are easily classified (as in the case of the examples mentioned in the previous paragraph). Moore’s original account of the distinction (1903, p. 41) was that natural properties can exist independently (and ‘in time’) of the objects that they are properties of (he likens them more to ‘parts’ than to ‘predicates’), while non-natural properties are dependent on other properties for their existence. Moore wisely came to reject this view, when the absurdity of his account of natural properties existing independently of objects was made clear to him (for instance, how could my property of having weight exist by itself, ‘in time’, if all of my other properties were removed?). He also defined nature as “that which is the subject-matter of the natural sciences and also of psychology” (p. 40). So natural properties, it seems, would be the properties studied by these sciences (Ridge 2006, par. 5). This appears to be the currently accepted account of the distinction, but even it is not without varieties or problems, as Crisp observes. Crisp (2000, p. 116) identifies two ways in which this approach could be developed. The first possibility is that the natural be identified with what the natural sciences have historically dealt with: But this is unnecessarily limiting and contingent. The second is that the natural be identified with what the natural sciences could “potentially” deal with: But this, as Crisp notes (p. 116), “begs the very question to which we are seeking an answer”. One is tempted to think that these difficulties are so great that they should sound the distinction’s death knell.

property (be this redness, solidity, extendedness or whatever). There obviously will be differences, but I cannot see why moral properties are seen to be a class apart from all other properties, rather than as a subclass. Even if moral properties supervene on collections of other properties, they are still in a sense basic. After all, we do not talk of mental properties as being non-natural, even though it is common to regard the mental as supervening on the physical (Moore specifically refers to thoughts as ‘natural objects’, although he does stress that a natural object can contain non-natural properties).
I shall hazard a guess that the reason the distinction between naturalism and non-naturalism is so hard to make is that it really should not be made in the first place. Instead of arguing between natural and non-natural properties, we should instead be arguing between moral and non-moral properties (Moore himself says something similar to this when he denies that naturalistic theories of ethics actually are ethical theories at all; 1903, pp. 10-12, 20, 40). A moral property, then, could be one that contains an endorsement or condemnation, or a command to do or not to do (the importance of these will be explained below). If this is accepted, then naturalistic theories are at best quasi-moral. Pleasure, for instance, is clearly a property, but it is not clear why we have a moral reason to promote or maximise it.

This is related to what Moore calls the naturalistic fallacy. It is important to spend a moment considering this so-called fallacy, as it will be relevant to what we look at later. According to Moore, the naturalistic fallacy is committed when an individual believes that he or she has defined good by identifying good with some other (natural) property. He gives the analogy (1903, p. 10) of the colour yellow, which, in a law-like manner, goes hand in hand with “a certain kind of vibration in the light”. But, notes Moore, despite their co-occurrence, yellow is not to be identified with such a vibration. People at times have identified goodness with the likes of pleasure, happiness, production, etc. The naturalistic fallacy does not suggest that these things cannot be good (they may well be examples of good things), but it asserts that ‘good’ is not synonymous with any of these terms (e.g. the claim ‘soccer is good’ does not translate as ‘soccer is productive of happiness’ or ‘soccer is, simply, productive’). It has been pointed out that the naturalistic fallacy technically isn’t a fallacy at all – whatever mistakes may or may not have been made, a logical isn’t one of them (Ridge 2006, p. 10). Nonetheless (and despite my misgivings about the naturalistic vs. non-naturalistic distinction), it is important to bear this in mind when discussing goodness.

While this thesis is primarily concerned with what are typically regarded as non-natural moral properties (such as goodness), some attempt will be made to examine naturalistic moral properties as well.
B1.2.2 Value and Prescriptive Properties

When it comes to moral properties, I am of the view that it is not enough to have simply the property of good and, perhaps, bad, for these properties merely comment on the world, they in no way instruct us to act in a certain manner. Instead, I follow Hartland-Swann (1960, p. 98) in distinguishing between value properties and prescriptive properties (although he deals with terms rather than properties). I suggest (in line with the comments of Pettit, to be looked at below) that a satisfactory moral theory must accommodate properties of both these kinds. A search through the literature has presented me with the following candidates for moral propertyhood: Good (or Goodness, or the Good), Bad (or Badness), right (rightness), wrong (wrongness), ought, ought-to-be-doneness, to-be-doneness, not-to-be-doneness, to-be-maximisedness, to-be-pursuedness. Our task in this subsection is to determine into which of the categories each of these falls.

Good and bad, straightforwardly enough, are value properties, while ought (and anything containing it), and the likes of to-be-doneness are prescriptive properties, as these demand things of us. The difficulty comes when we try to categorise right or rightness. As it is ordinarily used, it seems to me to be a value property, although one more limited in scope than goodness, in that it tends to deal only with actions. Rashdall (1907, p. 136) argues along these lines when he suggests that “‘right’ is applicable only to voluntary actions… ‘good’ is applicable to many things besides acts”. It is at least arguable that rightness is the goodness of actions (a sub-category of goodness, perhaps). In further support of this position, Butchvarov (1989, p. 21) argues that it is hard to identify a rightness property, at least one as primitive as goodness, and suggests that in a case where more than one action would result in equally favourable consequences, and where no other actions would surpass this, “none would be one the agent ought to perform but all would be right” (p. 19). Others disagree. Ross (1930, p. 3) points out, first of all, that “‘right’ does not mean the same as ‘morally good’”, and provides as evidence the fact that we can’t substitute ‘right’ for ‘morally good’ and retain the same meaning of our moral claims. This problem is likely avoided if we take ‘right’ to mean ‘morally good action’, though. Less objection can be made to Ross’ other claim. He argues (p. 3) that “it is clear” that the appropriate explication of ‘the right act’ is “‘this act is the act that ought to be done’ [or] ‘this act is morally obligatory’” (original emphasis). I am still inclined to
accept the former account of rightness, though I recognise that the issue has not been settled, and the treatment of rightness in the remainder of this thesis will reflect this. Anyway, we are more concerned with the properties picked out by certain words, than with the words themselves – so, if rightness is a value property, then any moral theory that includes it as a property must also find a place for at least one prescriptive property.

While I can think of no direct evidence that would back this up, it does seem, intuitively, that a large number of the things and situations in the world, and actions which we perform, are neither good nor bad. In other words, they are morally neutral (though consequentialists may disagree with this – they might think that all actions have some consequences for goodness or badness somewhere down the line, and thus have some moral relevance themselves). This means that a bad action cannot simply be defined as an action that does not possess the property of goodness, or vice versa. Similarly, an action which ought not be done is not simply one that fails to possess to-be-doneness (there are lots of actions, surely, that we are neither commanded to perform nor not to perform). This suggests that each of goodness, badness, to-be-doneness and not-to-be-doneness (or other prescriptive substitutes) are required moral properties.

Prichard (1968 pp. 36-37) makes an interesting point about ought-to-be-doneness and ought-not-to-be-doneness (which will elsewhere be referred to as simply to-be-doneness and not-to-be-doneness). He argues that while it seems natural to regard these as “a sort of quality or character of the action” (pp. 36-37), it is not the case that obligation (or its opposite) could be a property of an act, because this would mean that the obligation to perform a particular act would depend on that act actually being performed. If the act did not occur, then neither would the obligation to perform it. Instead, he argues that an obligation to perform a particular action must be a property of the person who ought to perform it. I am inclined to disagree with Prichard, for two reasons.

Firstly, in certain cases it does seem to be enough that the prescriptive property would exist upon the occurrence of the action, especially if (by way of supervenience or otherwise) we know that a certain property will always occur with an action. This seems especially true for obligations not to perform certain actions. A man could know that, by its nature, murder always has not-to-be-doneness supervening on it, and this would surely
be enough for him to know that he ought not perform the action. The not-be-doneness need not exist prior to the murder: If the individual does not know it would be there when he contemplates the act, then he is not going to recognise it when he performs it – only the most robust intuitionist could possibly think that he would. There is not going to be a horror-of-horrors moment when, half-way through beheading his victim, the murderer suddenly intuits the not-to-be-doneness, but only when it is too late! (I don’t dispute that some would-be criminals get cold feet and back out during their crimes).

If we do not accept this, then there would seem to be a strong case for holding, what I consider to be a very non-parsimonious view, that I am currently and specifically obligated, via not-to-be-doneness, not to perform any action that would be wrong. This is not to say that I am only broadly obligated not to perform wrong acts. Any time I walk down the street, I will have an actual metaphysically real obligation not to perform actions a, b, c... Not to rob Mrs Jones, not to murder Mr Smith, not to burn down the greengrocer’s store, etc. etc. etc. Perhaps it could be argued that the not-to-be-doneness only comes into being when I start to contemplate an act, but this, I think, is unsatisfactory. It would mean that, as I walk down the street, I am not obligated not to burn down a store (be this specifically, or in the broad sense that I ought not perform any wrong acts – the broad sense seems to be redundant once we factor in specific obligations), but I become obligated not to the moment I think of doing so.

Now to my second point. I acknowledge that my previous argument works best for obligations not to perform certain actions. It is more difficult to see how someone could actually be obligated to perform an act if that obligation only comes into being upon the act’s performance. There is no loss, in other words, if not-to-be-doneness is not instantiated (for this simply means that that which ought not to have been done was, in fact, not done), this is not the case with to-be-doneness. There are a couple of possibilities here. The first (and one that I am sympathetic to) is to accept that there only exist metaphysical obligations of the negative, and not the positive, sense. This would fit in well with certain libertarian-type ethical theories, which hold, for instance, that one is obligated not to beat someone up, but is not obligated to help the victim of a beating, and I give this view a lot of credence (an approach like this will be explored in section D of this thesis). Nonetheless, it will be unsatisfactory to many people. A possible solution,
then, is to be found via not-to-be-doneness: Inaction is action, too (this is accepted by Butchvarov, 1989, p. 18, and, I suspect, by many other theorists). If a person is obligated to perform \( a \), then it might be thought that he is also obligated not to perform not-\( a \). I.e. if this person did not perform \( a \), and therefore failed to instantiate to-be-doneness, then not-to-be-doneness would be instantiated via whatever else was done (even if this something else is best described as nothing). In this way, one could be seen to be forced into performing the correct action via the moral barriers associated with the morally incorrect ones (a somewhat limited version of this option will also be developed in section D).

It has been suggested to me that another problem associated with attaching obligations to actions rather than to persons is that certain obligation are person-specific, in that they might hold of certain people but not others. It might be thought, for example, that though I have an obligation to look after my mother, other people would be perfectly entitled to ignore her. I don’t think this poses too much of a problem, because there is no claim that relations cannot be relevant to actions: The action in question could be helping my mother with the groceries, for instance (this would obligate me, but no one else). Furthermore, because of the relation that holds between me and my mother, the action ignoring my mother’s requests for help with the groceries could plausibly instantiate not-to-be-doneness. In this way, we could achieve much the same by attaching obligations to actions as we can to people, although I will have more to say on this below.

We have now examined moral properties of the valuable and prescriptive kinds. While we have seen arguments for and against the admitting of some of them, we cannot finally determine which (if any) of these actually exist until we look at the ethical theories which hold them. It is to this that we now turn.

**B2 Consequentialism, Deontology, Universals, Tropes**

Our new task is to examine how the two major streams of ethical theory, consequentialism and deontology, fare when we explicitly regard properties, first, as being universals, and then as being tropes. Needless to say, there are countless versions of each of these ethical and metaphysical theories, and so what we cover cannot be
perfectly comprehensive – what will be aimed at is both a broad coverage of the options presented by generalised accounts of each and also a look at specific examples. It should be stressed again that while there are theories that accommodate both universals and tropes, if these regard it as being particular properties, as opposed to concrete particulars, that instantiate universals, then we shall class these as being theories of universals. Conversely, if a theory regards universals as being constructed out of tropes, then we shall regard such a theory, in essence, as being a trope theory.

According to Pettit (1991, p. 230), moral theories “all involve at least two different components. First, they each put forward a view about what is good or valuable... [The second aspect] is a view, not about which properties are valuable, but about what individual and institutional agents should do by way of responding to valuable properties”. This thesis has suggested that this second aspect must also involve properties, and it is here that the debate between consequentialism and deontology is focussed. We shall look first at consequentialism.

**B2.1 Consequentialism**

Let us now commence our study of moral properties and consequentialism. This subsection aims at making three main points. Firstly, that ordinary definitions of consequentialism do not reflect the way that prescriptive and value properties need to be related both to each other and to non-moral properties. Secondly, that a change can be made to the formulation which is metaphysically viable if properties are taken to be universals. Thirdly, that consequentialism becomes essentially untenable if properties are taken to be tropes.

**B2.1.1**

Consequentialism (the term teleology is also used to refer to much the same approach; Davis 1991, p. 205), as it is ordinarily defined, is the view that the rightness or wrongness of an action is determined solely by the outcomes (or anticipated outcomes) of that action (utilitarianism, the name originally given to this approach, is now primarily used for particular types of consequentialism; Mautner 2000, pp. 107-108). The exact formulation is quite important as it indicates what consequentialist theories believe the relationship
between the properties goodness and rightness to be. To this end, it is useful to consider the definitions given in philosophy dictionaries / encyclopaedias (surely not a good source for specifics, but useful for the broad brush):

Consequentialism assesses the rightness or wrongness of actions in terms of the value of their consequences. The most popular version is act-consequentialism, which states that, of all the actions open to the agent, the right one is that which produces the most good. (Craig 2005, p. 143)

[the doctrine that the moral rightness of an act is determined solely by the goodness of the act's consequences. (Audi 2001, p. 176)

[the view that an action is right if and only if its total outcome is the best possible. (Mautner 2000, p. 107)

These are the generic definitions given before more in depth considerations of consequentialism, and of its different varieties. What is significant here? Following Pettit, we will note that there are two aspects involved: The outcome which is / must be 'good', and the action which is / must be 'right'. Importantly, the predicates 'right' and 'wrong' are applied solely to the action, which suggests that the properties rightness and wrongness should be likewise limited in application. Our task now is to explore how it is that these properties may be connected to the actions that instantiate them.

(One qualification needs to be made, though. There is a dispute as to whether, on a consequentialist theory, actions can actually have intrinsic value. Typically it is thought that they cannot, and that only the consequences of actions should be taken into account when we engage in moral deliberation, but it is not much of a stretch to think that some actions may themselves be valuable (or disvaluable). If this is so, it is still necessary that the value or otherwise of the action be outweigh-able by the consequences. Consider an example. A terrorist mastermind is escaping from the police and will be able to commit many atrocities unless a little old lady is pushed into his path to trip him over. On one interpretation, there is nothing at all bad about pushing over the little old lady, because
doing so secures the best possible outcome. On the other interpretation, pushing over the little old lady actually is bad, it’s just that the badness of the action is outweighed by the favourable consequences, and is appropriate for this reason. This thesis will be treating both possibilities as examples of consequentialism).

While there are many different versions of consequentialism, it is possible to group them into two main categories, the naturalist and the non-naturalist accounts. But even though there are important differences between these two camps, I suggest that, at a metaphysical level, they are similar enough that the same treatment can be applied to each. Essentially, the two differ over what is valuable, is it to be goodness or something like pleasure or happiness? Both approaches need to provide an account of the connection between these value properties and prescriptive properties. The definitions of consequentialism that we looked at above all assume that rightness or wrongness (which seem to perform the role of prescriptive property) apply to actions, so this should be the first possibility considered. I will now present an argument, based on what I call the supervenience problem, that suggests that this approach is inadequate.

**B2.1.2 The Supervenience Problem**

As was indicated in section A2.11, the notion of supervenience is commonplace in both metaphysics and ethics. In ethics, this idea (like many others) can be traced back to Moore, who observed, “if a given thing possesses any kind of intrinsic value in a certain degree, then not only must that same thing possess it, under all circumstances, in the same degree, but also anything exactly like it, must, under all circumstances, possess it in exactly the same degree” (Audi, 1999, p. 891). More precisely, and as we saw in section A2.11, supervenience says that “Properties of type A are supervenient on properties of type B if and only if two objects cannot differ with respect to their A-properties without also differing with respect to their B-properties” (Audi, 1999, p. 891).

It will be remembered that I added the requirement (in A2.11) that supervening properties must be exactly compresent with their base properties. I argued that two properties are exactly compresent if they reside in exactly the same location. The

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8 The original source of the quote is Moore’s *Philosophical Studies*, 1922.
example given (one that does not involve supervenience) was that of a red circle – it is composed of both the properties redness and circularity, and there is no place where the circle is but the red is not, and vice versa. As mentioned, I regard exact compresence as being necessary in cases of supervenience because otherwise the robust debate over whether or not allegedly supervenient properties are reducible to their supposed base properties would be solved too easily. Reducibility suggests sameness, and something cannot be reducible to something else if it exists in a different location (even if these locations do overlap somewhat). That said, and for reasons given, I contend that supervening properties are not reducible to their base properties.

So, we have seen that all moral theories require an account of the valuable and the prescriptive. Further, when it comes to consequentialist theories, it is actions that may or not instantiate the property of rightness. Granting these two things, and remembering what has been said about supervenience, here is a non-naturalist example of the problem that occurs for consequentialism:

Imagine that there is a renegade surgeon who has gone to Africa with the express purpose of drugging natives, removing their organs, and then selling the organs on the black market (the natives will then die). The surgeon spies a young native girl and promptly drugs her.

Consider Case A, in which the stolen organ will go to an ageing drug trafficker, and will thus ensure him several more years of evil.

But also consider Case B, where the organ goes to another little girl, who will not only get to live but who will be able to achieve her stated aim of becoming a charity worker (if it makes a difference, suppose that the native girl was likely to die of ebola fever within the next few years, anyway).

As we have seen, the rules of supervenience state that if two situations are identical in respect to their subjacent, or non-supervening, properties, then they must also be identical in respect to their supervening properties. In cases A and B the subjacent

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9 This is how consequentialists describe it; I am only following them.
properties are those that are involved in the *actions* – we can tell this because it is the action that is said to be right or wrong (so the supervening prescriptive property must apply only to these). So, given that we are claiming non-natural prescriptive properties to be supervenient upon natural properties, if there are two actions, A and B, and if these are identical in respect to their natural properties, then they must also be identical in respect to their prescriptive properties. It is not difficult to notice that this is the opposite of what consequentialists will want to say – they require identical actions to have different moral values.

The standard consequentialist view would say that the native girl should be killed in case B (because there will be more good in the world if she is killed than if she isn’t), but that she should be left to live in case A (where the reverse would be true). So, in situation A the action of the surgeon should involve the property of rightness and in B it should not. But the act of killing the girl, in cases A and B, is identical. True, the situations do differ in respect to their consequences, but the property of rightness in case B applies *only* to the action itself (not to the action and its consequences), so the rightness is not compresent with the action and its consequences, but just with the action. It is possible that a moral property could apply to an action and its consequences, but it would have to be something other than rightness (assuming that rightness is regarded as a prescriptive property – and consequentialism would require this, because simply stating that something is valuable, the only other option, is not enough to obligate an individual whose duty is to produce that which is *most* valuable). The conclusion must be that only the facts of the action can contribute to it being right and wrong, which is the opposite of what consequentialists hope for. But is the situation really this hopeless? Perhaps not.

The contention is that in order for rightness to supervene on an action, while nonetheless being based on the outcomes of that action, there must be at least one single-placed property that allows for this. Relations (the type of property noticeably missing from the above account) are not acceptable, because, as explained in section A2.11, for one property to supervene on another it must supervene on all of that property (though not necessarily only on it). So what we would need is a single-placed property that nonetheless relates the action with what is to come. This suggests that relational properties might provide a way out for the committed consequentialist. Relational
properties, it would be remembered, are things such as Fred’s property of being a father, which, while its existence depends on more than Fred (he could not have this property if he had no children), nonetheless applies only to Fred. The relation of fatherhood, on the other hand, would involve both Fred and his offspring. It will be remembered from A2.11 that many philosophers dispute the existence of relational properties, but the current work would not be complete if it did not consider them. Let us pursue this line of argument.

We would be wanting a property along the lines of ‘productive of more goodness than any of the other possible actions that were available to the agent’. The actual prescriptive moral property of rightness could then supervene, either in whole or in part, on this property. But how realistic a property is it? There are several criteria. First of all, we will need to consider whether such a property has a solid claim to existence. It is certainly true of some actions that they result in more goodness than other possible actions, but, as we saw in section A2.1, a true predicate is not enough to establish a genuine property. Would this mean, likewise, that actions also involve properties such as ‘productive of the most redness’, or ‘productive of more enthusiasm than any other possible action’? As predicates go, these are just as true of many actions as are claims about the amount of goodness they produce, but broadly accepting such properties (and I do not see how we can accept some but not others) would serve only to clutter the universe with the irrelevant. This is not a conclusive point, but it does seem to be an argument against admitting such relational properties – it is a huge metaphysical bullet to bite for such a small gain.10

Another consideration involves the level of complexity required by relational properties such as these. Traditionally, relational properties were seen to be pretty straightforward, including things like being a father, two feet to the left of, and causer of $x$. It is not too difficult to imagine, for instance, that a criminal may instantiate the relational property killer of Frederick. But relational properties of the sort required by consequentialism do more than this. Not only do they relate actual actions and actual consequences to each other, they also relate both of these to all possible actions and all

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10 Nothing in this paragraph should be read as suggesting that there would be no ordinary relations holding between an action and its consequences. Causation relations would likely hold, for instance. Note, though, that these would relate an actual action to its actual consequences, not to non-occurring actions or to merely possible consequences.
possible consequences. Such relational properties must depend not just on the actual world for their existence, but on a quite complex mixture of possible worlds. The problem is that while possible worlds are certainly useful tools when it comes to metaphysical debates, they are not ordinarily seen to be real enough to create properties in the actual world. Relational properties, just like relations, require the existence of the things they refer to in order to obtain (a man cannot instantiate the relational property of \textit{being a father} if he is in fact not a father). Possible worlds, on most accounts, do not exist, so there cannot be relations or relational properties in our world that depend on them.

An account such as the one just mentioned also takes us beyond the traditional reach of relational properties, which were posited to help with the apparently simple, but metaphysically more complex, task of identifying the terms in non-symmetrical relations (for example, the relation \textit{parent} of existing between two people does not identify which one is the parent and which one the child). The atypical nature of this requisition of relational properties for consequentialist metaphysics does not in itself rule out such an approach, but it provides us with another good reason to doubt its efficacy.

Finally, it has been correctly pointed out to me that the onus is on me to demonstrate that consequentialists are not entitled to include relevant consequences within their \textit{descriptions} of actions. So the action in case A could become something like ‘removing an organ to help a drug dealer’, while that in case B would become ‘removing an organ to advance humanitarian causes’. Firstly, I wish to note that while these might be true descriptions of actions, it does not follow that this description is based on properties being instantiated \textit{at the time of} the action (if they come after the action, then the prescriptive properties cannot supervene on them). I am inclined to think that though it is true now that a certain action will have a certain consequence, this is true precisely because it will be true in the future, and this future truth will rely on an accurate description of \textit{future} properties. As indicated in section A, properties supervene on other properties, not on descriptions. Secondly, it needs to be stressed that though these revised descriptions are future-based, they are not consequentialist in the sense that they claim that the outcome produced either will be or will not be the \textit{best possible}. For this to be the case (and for the description to closely reflect actual properties), we would still need

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strange properties that exist in our world but which deal in possible worlds. While we might be able to calculate the relative goods of all possible worlds, this is not enough. There would need to be some property, associated with actions, that somehow contains the information that the action in question either will or will not produce better results than other possible actions in other possible worlds. Though it is sensible for philosophers to deal in possible worlds, it seems unlikely that possible worlds could make something true of properties in our world.

The law of parsimony would seem to reject relational properties of the extravagant nature required for the above consequentialist account to be tenable. Further, and as already stressed, this thesis takes the law of parsimony very seriously. There is potential alternative account, however, to which we now turn.

**B2.1.3 Making Consequentialism Work**

Locating prescriptive properties in actions or situations seems to fail. The alternative, which we will now consider, is to associate them directly with the relevant value property. This approach appears to be more successful – successful, that is, so long as we take properties to be universals (while I will not be focussing on this, it is even arguable that this approach will work best of all if we take properties to be transcendent universals). This approach also seems, broadly, to be the one adopted by those consequentialist theorists who actually link their moral view to moral properties (although they don’t put the same emphasis on prescriptive properties as is done here).

Let us begin.

We shall start by assuming that Moore and Butchvarov are right, and that there exists a property of the good. This property will be a universal, and it will satisfy Pettit’s requirement that an ethical theory have an account of what is valuable. An approach like this provides us with a very simple answer to one of the central questions in ethics: *In virtue of what are various, and apparently disparate, things good?* The answer is that many different people, situations, actions, things or other properties are good, at the same time or at different times, precisely because they all instantiate the one universal property. In a very strict sense, it is the one property that is present in each of these
things. Just as redness can be instantiated by a multitude of things in the world (such as flowers, the sky, soil, hair, and book-covers) without its being problematic, so too can goodness. This is a potential boon for consequentialists who rail against any good that is particular in nature, and it dissolves the conflict that might be thought to exist between the competing goods of two or more people. In short there is no conflict, because we are not dealing with distinct goods at all, but with the very same good. The distinction between people, which consequentialists believe to be unimportant, ceases to be important here. It is the property of the good that is important, not the individuals who instantiate it.

I believe that the account just provided would be acceptable to Moore. He observes (1903, p. 147), for instance, that "the assertion 'I am morally bound to perform this action' is identical to the assertion 'This action will produce the greatest possible amount of good in the Universe'". Indeed, Moore rejects the very idea of 'my good'. He writes (1903, p. 99), "If, therefore, it is true of any single man's 'interest' or 'happiness' that it ought to be his sole ultimate end, this can only mean that that man's 'interest' or 'happiness' is the sole good, the Universal Good, and the only thing that anybody ought to aim at." Moore made this comment in the context of Egoism (and we looked at this above), but it gives us an indication of his view more broadly. It is good (a universal) that should be aimed at by all people, and, as we have just seen, it is the responsibility of each person to ensure that there is the most good possible. Moore, I hope it has been demonstrated, is not just a subscriber to both consequentialism and universals; his is a consequentialism that relies heavily and directly on universals (or on one particular universal, at any rate).

But the good is not enough. We also need a prescriptive property (to fulfil Pettit's second requirement), and this time we cannot use the likes of rightness or to-be-doneness because these apply exclusively to actions. The property required must be something like to-be-pursuededness or to-be-maximisedness\(^\text{11}\), and, of course, it will also be a universal. It is in the nature of these properties that (if they exist) they apply exclusively to the

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\(^{11}\) The good will be maximized in the sense that it will be instantiated as often as possible. According to universals theories, changing the number of instantiations produces no change to the universal itself (the exception to this may be if the universal ceases to be instantiated at all).
property that the theory deems to be valuable. Let us explore this approach by using the common consequentialist example of the out-of-control train.

Fred is a railway maintenance man, and he and his partner, Joe, are performing some routine maintenance on a line of track. Suddenly, an out of control train comes down the track parallel to the one they are working on, straight towards a group of children who are foolishly playing on it. The train will kill the children unless Fred diverts it down the other line. The only problem is that Joe is working on this line and if the train comes down it, he will be killed.

In response to this example, it is fair to assume that the property of good will be instantiated in the lives of each of the children, as well as in Joe’s. It will also be associated with many of the actions that each of these individuals might perform. It is easy to see what a universals-believing consequentialist would say about this:

There is the one property of the good, which ought to be maximized or pursued, and which is present in each of the lives, and some of the future actions, of each of the potential victims (the children, on the one hand, and Joe). By switching the tracks and killing Joe, Fred will ensure that there is a greater amount of good in the world than there otherwise would have been, and so this is the right action for Fred to perform.\(^\text{12}\)

It is easy to see how a similar account could be provided for naturalistic theory, one that values the likes of happiness or pleasure. Crisp (2000, p. 116), for example, mentions that, in the case of hedonistic utilitarianism, “goodness would be constituted by pleasurableness, and rightness by its maximization”. Pleasure is a property, as such it is a universal, meaning that whenever a person, situation, or thing is pleasurable, it is so because of the presence of this one property. There is really no such thing as A’s as opposed to B’s pleasure, it is simply the very same pleasure that is present in both. Poor person A may be entirely irrelevant (except, perhaps, as a means) to the maximising of pleasure.

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\(^{12}\) I am loathe to get too caught up in one example, as I am sure that there are, actual or potential, deontological responses to this scenario that also advocate sending the train down the other line. As the consequentialists come to their conclusion through consequentialist reasoning, however, it is still instructive for us to use this as an example.
Let us be clear on a couple of points. On a theory of universals, the simple property of
good or pleasure that exists in me or my actions is numerically, and qualitatively,
identical to the simple property of good or pleasure that is present in any other person or
in their actions. This is not to say that there is no room for difference – perhaps I
instantiate a valuable property qua concrete entity, while someone else may instantiate
the same property simply in virtue of their possession of another simple property (this is
what might happen if the non-natural property of the good supervened on the natural
property of pleasure). Furthermore, it might be thought that, though there can be no
qualitative difference, there can nonetheless be quantitative differences between, say, the
goods of particular people. Perhaps one person instantiates it more times than does
another. Alternatively, there may be differences in degree of instantiation, in the same
sense that two people can instantiate wisdom to different degrees. Finally, if we subscribe
to a transcendent account of universals, one person may be said to involve a more perfect
reflection of the valuable property than is another.

In conclusion, universals do two things that are essential for consequentialist
theories. Firstly, they make it the one numerically identical property – be this goodness or
pleasure, or whatnot – that is present in all people. This gives the consequentialists the
yardstick against which they may measure various potential futures, and which they
might use to decide between competing claims. Secondly, in doing this, the universals
help make the distinction between people (who can now be thought of as mere vessels for
this property) unimportant. Again, this is precisely what the consequentialists want.

B2.1.4

We have seen that, so long as we associate prescriptive properties with value properties
rather than actions, consequentialism seems to be quite plausible on a theory of
universals. Indeed, the most prominent historical accounts of goodness (those of Plato
and Moore), actually rely on their value properties being conceived in this way. What we
will now consider is whether this plausibility survives a transition to trope theory. To do
this, we need to consider, first of all, what trope theory would say about the good. This is
pretty straightforward. On a trope account, there will no longer be a single metaphysical
entity that is present in multiple places at the one time. On such a view, a situation or person that is good is so because of its own unique trope, one that is present only in that situation / person, and which is numerically distinct from all other tropes. While it is possible to talk of properties being formed from sets of these tropes, and while it is even possible to refer to these sets as universals, their nature would be nothing like those of universals typically conceived.

An equivalent account would be given for prescriptive properties. Universals such as to-be-maximised and to-be-pursued would be shattered into countless prescriptive tropes. These tropes would be numerically distinct from each other, and would have their own, single, location. Indeed, assuming that we keep our old account of the prescriptive supervening on the valuable, these prescriptive tropes would each be related to a single value trope.

This initial formulation is problematic, though. It will be remembered that Moore argued that there was no such thing as individual goods, only the universal good. If trope theory is true, then this situation is reversed, and our goods are now all individual and particular (either to situations or people). Just as we would deal, in the case of people, with my bit of redness, or my bit of happiness, so too would be dealing with my bit of goodness. Any command to maximise would be supervening on something that is in its very nature mine. It is easy to see how this can lead to a view that is a complete anathema to consequentialists. The property to-be-maximised could no longer be said to apply to goodness in general (for there is no such thing), but to the particular good on which it supervenes, be this my good, or Fred’s good, or the good of someone or something else. We can thus forget the dispute between consequentialism and deontology, what we end up with resembles Moore’s dreaded egoism.

Now, we shouldn’t leave this as the final word on this issue. Instead, we should try to find some way of reconciling consequentialism with this new metaphysic. Perhaps all we need to do is stipulate that the prescriptive tropes have as their object the maximisation of the cardinality of the set of value tropes (i.e. all tropes with which it does / would share a relation of exact resemblance). This would preserve the consequentialist requirement that we be obligated to ensure that there is as much good (or other property that is deemed valuable) in the world as possible. Despite its initial plausibility, though, I
think that an approach such as this fails, and I will now provide two reasons for why this is so. I call these the to-be-maximised and the non-existence problems.

B2.1.5 The To-Be-Maximised Problem

In this subsection I will be referring to the property to-be-maximised, but it is important to note that the same analysis holds for to-be-pursued, the other prescriptive property that is held to relate directly to value properties. This argument suggests that having as its object the maximisation of the cardinality of the set of goodesses, or other value properties, is untenable.

Remembering that we are operating under the assumption that moral properties are necessarily supervenient, the first thing to note is that this option would require a quite unusual kind of supervenient trope – one that supervened on $x$, but which also included $y$ and $z$ in its terms of reference. This runs the risk of violating one of our earlier requirements regarding supervenience. Remember that I argued in section A2.11 that supervenient properties must be exactly compresent with their base properties. In support of this, I argue that though supervenient properties are not reducible to their base properties, the fact that it is often suspected that they might be is evidence for this exact compresence (if two properties exist in different places, then there is no way that one can be reduced to the other). While more than exact compresence is required for supervenience, I suggest that it is necessary. The significance of this is that it is difficult to see how a supervenient trope that makes reference to tropes other than those in its base could be potentially reducible to those base tropes (i.e. could be nothing other than them). It might be thought that an argument against this position may be found in the philosophy of mind. It might be suggested that the thought “Hitler was bad”, while supervening on the firing of certain neurons, nonetheless includes more than just the firing of these neurons in its terms of reference (it may be thought to have something to say about Hitler himself). I would argue, though, that there is a sense in which the pattern of the firing itself makes the connection, so that there is really nothing being included in the scope of the mental that isn’t already included in that of the physical. An explanation such as this does not seem to be available in the current case.
Though I believe that this increase in scope is untenable, I recognise that there is room for disagreement. Even assuming that it is unproblematic, however, there are other problems associated with the approach outlined.

The next point is related to the problem raised by Prichard (1968, pp. 36-37), which we have already explored. It will be remembered that Prichard argued that properties such as ought-to-be-done and ought-not-to-be-done must apply to the individuals who perform certain actions rather than to the actions themselves, because otherwise the obligation to perform or not to perform would only come into existence with the action itself. This is particularly true given that these prescriptive properties are thought to be supervenient, and it is contrary to the notion of supervenience to say that supervening tropes can exist in the absence of their bases. Prichard’s argument means, if it is true prescriptive properties apply to actions, that I am not actually obligated to perform action X until I actually perform it, and that, likewise (and counter-intuitively), I am not obligated to refrain from performing action Y until I actually do perform this action. Our concern here is slightly different, though: We are interested in a different prescriptive property, to-be-maximised, and its relation to goodness (rather than to actions). If, as we have argued, to-be-maximised must supervene on goodness, then our question is, how is one obligated to maximise goodness if one does not already stand in a relation with an actual goodness trope?

We saw above how there was an easy solution to Prichard’s problem in respect to ought-not-to-be-done, as opposed to ought-to-be-done. If ought-not-to-be-done is never instantiated, this means that the bad action was never performed (which is good). If ought-to-be-done is not instantiated, however, it means that the good action was not performed (which is bad). To-be-maximised, I contend, is in a similar position to the latter. One is only obligated to maximise goodness, or goodness tropes, if a goodness trope exists in such a way or place that one is related to it. In a goodness world, nobody would be obligated to try to create any goodness, let alone try to maximise it. Perhaps the simple existence of a single goodness trope is enough to obligate everybody to

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13 This is problematic as long as properties are conceived of as immanent universals, or as tropes or related bundles of tropes. When it comes to transcendent universals, even those that are uninstantiated exist somewhere (in their own realm, or in Plato’s ‘heaven’, perhaps).
maximise the good, or perhaps (more plausibly) their needs to be a more substantial relationship between an individual and that trope. Either way, this must be unsatisfactory to consequentialists, but it is still, I think, preferable to associating a property of rightness to actions.

A further point to note involves the fact that maximising the good can come at the expense of particular goods. This is an essential aspect of consequentialist theories. But consider what it means. A person experiences a value trope of goodness, and its supervening prescriptive trope, to-be-maximized. This prescriptive trope, in its command to maximize, is referring to the class of all tropes that exactly resemble the one over which it supervenes. Yet maximizing goodness tropes generally may come at the expense of particular goodness tropes, even at the expense of the one that provides the base for the prescriptive property. If that particular good is sacrificed for a greater bulk of good elsewhere, what happens to the command to maximize? It obviously will also disappear, but is its command still applicable, or is the person following it simply freed of obligation? It is true that there will be these other goodness tropes, each of which will have its own supervening command to maximise, but these need not come into existence immediately after the sacrifice of the former one – there could well be a time when no value or prescriptive property exists. It seems that during this time, and without breaking an existing moral demand, the formerly obligated person could well act contrary to the maximisation of goodness.

I think that the arguments just made demonstrate that a consequentialist theory that holds to-be-maximised to supervene on value tropes would fail, but, again, if the reader remains unconvinced, there are further reasons.

B2.1.6 The Non-Existence Problem

The problem to which we now turn, which I call the non-existence problem, is different to the problem, looked at above, of the non-existence of an obligation to maximize the good in the absence of good. This new problem results from the fact that a
consequentialist trope theory appears to require relations between things that exist or will exist and things that do not exist\textsuperscript{14} (and never will).

Consider how relations that have non-existing terms differ from ordinary relations. Ordinary relations hold between things that exist (two marbles may be five centimetres from each other, Fred may detest Martha). It need not matter if the objects or properties that are related do not exist at the same time – a relation of causation would be an example here, as would one of precedes. The problem arises when we try to consider how not only the actual action and the actual consequences are related (causation can easily account for this), but how each of these are related to all possible alternative actions and all possible consequences – genuine relations that span possible worlds would have to be unwelcome to anyone who desires a simple theory. In order for an action to be deemed right\textsuperscript{15}, it must have been related to not just the actual future, but to the possible futures that would have been less good. This is already problematic for reasons to do with supervenience, as we saw above, but this new problem is perhaps more intractable.

How can a relation be instantiated when one (or more) of the terms of that relation will never obtain? You cannot have a fatherhood relation in which the father role is played by a man with no offspring, nor can something be a cause if it does not have an effect\textsuperscript{16}. Consequentialist trope theories, I contend, depend upon relations of this odd sort; probably something like better than, or contains more good than. Both of these relations are fine, ordinarily. Car A may be better than car B. Your average charitable organisation may contain more good than your average gaol. Without relations such as these, there could be no metaphysically viable truth to the claim that one action produces more good than another – we saw in sections A2.1 and A2.11 that there can be claims that are true despite the fact that they do not identify actual existing properties, but such properties are required for there to be significant metaphysical consequences (a property cannot

\textsuperscript{14} Unlike Moore, I take the non-existence of a property to mean that it has no form of being anywhere, in the perceptible world or outside of it.

\textsuperscript{15} A note on terms: In this discussion, I will be using the term 'right' not to refer to a property, but to characterise an action that fulfils the command of maximizing the good. The concerns raised here would still apply to a property of right, though, if one was unconvinced by my earlier arguments against it.

\textsuperscript{16} It has been pointed out to me that intensional predicates (such as 'hates' and 'worships') do not depend on the existence of their object for their own existence. I could hate goblins even if there are no goblins, for instance. I would still maintain that there are no genuine relations involved here, however. In these cases, it is simply true that a person has an attitude that is based on a false belief.

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supervene on a truth which is only linguistic, for instance). So metaphysical relations are required, but how could these exist if their terms will never obtain?

How might consequentialists respond to this argument? They may argue that it is not the future and possible futures per se that are relevant when attributing rightness to an action, but the beliefs that the moral agent has about these futures when making a decision. Such a suggestion would not be unreasonable, and would perhaps stem from the thought that no one can be expected to have certain knowledge of the future consequences of his or her actions and potential actions, be this in areas to do with morality or not. We know that in the non-moral arena people are able to function perfectly well in their daily lives without such knowledge.

But this is not adequate for the purposes of this study, where realism about moral issues, independent of beliefs had about those moral issues, is assumed. It seems perfectly right to think that a person’s being good or bad depends on his beliefs and intentions, but this is so, surely, because there is some match-up, however inadequate, between his beliefs and intentions and the real world. For example, on those occasions where the moral agent is correct in his assessment of an action’s consequences, his action would be right in a way that is independent of his beliefs about it. Importantly, the property of good, say, may still apply to the agent even if the action he performed was not right, if, had he been correct in his assessment of the consequences, his action would have produced the best result (and thus would have been right). Perhaps the good would apply to the agent so long as he had as his object the best possible future, even if he was doubly incorrect (i.e. wrong about the possible consequences and the actions that lead to them).

In the above we diverged into an assessment of what makes a good person or character – I think it is commonly accepted that intentions play a large (if not an ultimate) part in such judgments. The problem for consequentialists is that they seem to be heading down a path that judges not only people in this way, but also their actions. From what we have seen, what is to stop a consequentialist from concluding that it is an agent’s belief about good and bad generally that makes a performed action right or wrong (as long as he acted in accordance with that belief)? Once we first embark on this agent / belief centred path, there seems no good reason to stop before getting to this point. The consequence of this is that there can be no genuine person-independent truth when it comes to judging
between not only various consequentialist viewpoints, but between consequentialism and any other type of moral theory. A deontologist’s actions could be just as right as a consequentialist’s, because of the importance of belief not just in assessing people but in assessing situations. This also poses what might be called the problem of the Enlightened Agent. This is an agent who is apparently blessed because he knows the truth about goodness and rightness. But knowing that truth, there is no external moral object for him to aim at. He would have to be deluded as to the nature of good in order to be good, and of right in order to do right. A compelling case for ignorance. It should be noted that there are those who believe that the only thing that is truly good is good intentions, but this is surely inadequate for the rest of us.

Of course, the approach of distinguishing between the moral properties of agents and those of their actions may not be entirely adequate. After all, we would be unlikely to apply the tag of ‘right’ to an action that was performed randomly, even if this action resulted in the best possible consequences. We would be even less likely to apply it to an action that was performed with a clearly bad motive, even though the consequences were the most desirable. We have several options here. Firstly, we might come up with an account whereby the action does need to be well-intentioned in order to be right, but where this intention is more an enabling condition than a strict criterion. Similarly, we could hold that in order to be right there must be an (at least approximate) correspondence between the situation (action and consequences) and the agent’s beliefs about the situation. There need be nothing circular here: If an agent wants to do the right thing then he or she would (should) determine what action would result in the best consequences and perform it for this reason. A third option is that we bite the bullet and accept that an action is right even in the cases of randomness and bad intent, it’s just that the character of the agent may get a neutral assessment in the first case, and a negative assessment in the second. Despite the uncertainty, I am confident that a satisfactory approach can be found.

While not everyone may find the individual arguments mentioned above as convincing as I do, together, I contend, the supervenience and the non-existence problems provide a
compelling case for ruling out the possibility of basing a consequentialist moral theory on a trope metaphysic. Let us now turn to deontology.

**B2.2 Deontology**

In contrast to consequentialism, deontology (also referred to as non-consequentialism and non-teleology; Pettit 1991, p. 230) is the view that certain actions are right or wrong in and of themselves, and hence are not dependent on their outcomes for their justification. Typical examples are injunctions against murder and lying. It would be wrong to murder an innocent person, for example, even if that person’s murder would ensure the greater good (their organs could be used to save many other lives); likewise, it would be wrong to lie even if, by lying, one were able to reduce the number of lies in the world (perhaps by falsely claiming that all liars will burn in Hell). In light of the qualification given for consequentialism, a theory will be regarded as deontological even if it does give some consideration to consequences (although many will not), so long as there are at least some actions that are required or prohibited irrespective of those consequences.

**B2.2.1**

Let us commence this study by again assuming the truth of a universals theory of properties. This study will be similar to our study of consequentialism. Again, we posit two types of properties, the property of the good, or a natural equivalent, that is valuable, and a prescriptive property, one that demands action, in this case something like *to-be-doneness, rightness* or *to-be-pursued* (the first two are likely to apply to actions, the last to the valuable). Given that this is deontology, it is probably even more important to consider the opposites of the properties just mentioned: i.e. *badness* (or *the bad*), *wrongness, not-to-be-doneness* and *not-to-be-pursuedness*. As with the more positive properties, the negative prescriptive properties (those that order that something not be done or pursued) would be associated either with the actions that oughtn’t be performed or with the disvaluable property itself.

There is more than one way that this approach may be developed, and a sketch will now be provided of some of these.

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The first possibility is that there exists a universal property of the good, and perhaps this applies to human lives (alternatively, it might be held that human life itself is naturally valuable). Perhaps, also, there is a property such as to-be-pursued that supervenes on the good, or on the lives. Such a property could be seen to obligate people (both the person whose good / life is in question, and others) to preserve life, perhaps in both a negative and a positive sense (one may be both negatively obligated not to harm that life, and positively obligated to preserve that life if need be). It might be thought that actions may also contain, or fail to contain, goodness. They may also contain badness. These latter actions, if they occur, may also instantiate the property not-to-be-doneness.

The important point is that supervenience dictates that wherever a moral property supervenes on one or more base properties, the same moral property must also exist wherever and whenever the relevant base properties are present.

A second approach, which I am not particularly sympathetic to, but which is nonetheless viable, is to ditch the value properties and focus solely on the prescriptive properties (this would be a violation of Pettit’s requirements, but it may be thought to be consistent with the motivation of at least some deontology). For instance, we could hold simply that not-to-be-doneness supervenes directly on certain actions, without the aid of the valuable. Crisp (2000, p. 113), in discussing the phenomenological aspect of moral properties gives the example that “[i]t does capture an important aspect of the appearances to say that the action of hoodlums we catch setting fire to a cat somehow has ‘not-to-be-doneness built into it’, and that we can see this”. It would certainly be plausible to locate the property badness with this action, but perhaps it is not required. A further point of interest about the phenomenological aspect of moral properties is that, on consequentialism, when it comes to actions at least, it is not the case that the likes of not-to-be-doneness could be clearly ‘seen’ (I don’t presume that it must be on deontology). A person would need some knowledge of an action’s consequences to know its moral value, but these are not as directly perceivable as actions – it could be argued that the universe itself considers all the consequences and then has not-to-be-doneness, where appropriate, flash like a neon sign, but this would be strange.

One thing that I intend to leave open (again, because the existence of universals per se does not seem to solve this), is the issue of specificity (the points made in these few
paragraphs will also apply to trope deontology, below). Given that we have relied heavily on the principle of supervenience, we are committed to holding that any situations that involve the same base (or subvenient or subjacent) properties must necessarily involve the same moral properties (assuming that the latter are supervenient). But specifying which base properties are important is not a simple task, and, whatever we decide, it will have consequences for the resulting moral system. In effect, there are two extremes that, metaphysically, are equally plausible, and there are various possible midpoints between these.

The first possibility is what might be termed strict deontology. This is the version of deontology which clearly dictates those actions that are never to be performed, regardless of other situational (as distinct from consequential) factors. Standard examples are lying, theft, and murder. We could suppose, for example, that there is a universal property of murder, such that every time that a murder occurs, this property is instantiated. Supervenient on this property is one or more moral properties, such as wrongness or not-to-be-doneness (alternatively, this property could be thought to supervise on the contemplation of murder). Many traditional deontological ethical views, such as the ten commandments, would fit into this very well, as would various attempts at identifying ‘universal moral laws’, for not only would the moral properties be universals, but so too would be all the non-moral properties they are related to. Thou shalt not steal, murder, covet thy neighbours belongings (or wife, if wife is not a determinate of the determinable belonging) etc.: In each case the property shalt-not could supervene directly (or indirectly, via bad or wrongness) on the properties stealing, murdering, coveting-thy-neighbour’s-x, etc. These actions would necessarily be wrong, and other situational facts would be morally unimportant.

At the other extreme are accounts that are somewhat similar to what is known as situation ethics. Obviously, these accounts would not place any importance on the consequences of actions, but the determining of whether an action is right, or a person or object good, will be more complex than simply lying = bad. Perhaps the reason for, and the context of, the lie is relevant – for instance, the knife possessed by a balaclava-clad questioner may be a perfectly good reason to deny one’s identity. The important thing to note, though, is that the requirements for moral properties to supervene are still the same.
So while we are no longer dealing with something as simple as badness supervening on lying, the requirement that if, in one situation, moral property A supervenes on the conjunction of non-moral properties W, X, Y, and Z, then moral property A will supervene any time those non-moral properties are conjoined, still applies. In our example, while one may not be broadly permitted to lie, one is allowed to do so whenever approached by a knife-wielding, balaclava-wearing thug who demands to know one's name (though, of course, even this could be made more specific). This approach may be appealing to those who are normally suspicious of hard and fast rules but who, nonetheless, are disinclined to give precedence to consequences and who have the conviction that similar situations should be treated similarly.

B2.2.2

While the foregoing may seem reasonable (it certainly does to me), it is not a view that has wide currency. Indeed, in my research I have not come across any moral theorists who subscribe to universals, believes that goodness (or something like it) is a non-natural universal property, and yet subscribe to a deontological ethic (as we will see in D1, though, Bacon comes close). This could just be coincidence, but it does seem as though their reasons for accepting consequentialism are directly related to the metaphysics of their valuable property. It will be instructive to look at, and respond to, a criticism of a deontology-universals match made by Butchvarov. It will be remembered that Butchvarov is open to allowing that certain actions may have some intrinsic value, but is, obviously, committed to the view that this value can be outweighed (I think this is wise – consequentialist theories rely on many things having value, so it seems strange that some are so unwilling to allow that actions may, especially when one considers that the consequences of an action can include other actions). Writes Butchvarov (1989, p. 192),

[however important the intrinsic “value”, be it goodness or rightness, of an action may be, the consequences of the action do matter, and it would be moral, indeed conceptual, confusion to claim, perhaps on grounds of incommensurability, that it is never possible that their “disvalue” should outweigh the intrinsic value of the action.

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Butchvarov then goes on to suggest that a theory that does not recognize this is not a "genuine ethical theory" at all (he suggests that many apparently deontological theories will be found to be consequentialist if one takes the afterlife into account). Needless to say, I disagree.

It should be noted that Butchvarov's claim is the result of more argument than just a discussion of properties. He does not claim that his conclusion is intuitively passed on to him by the existence of goodness, rather he develops an argument throughout the course of his book. Nonetheless, it is important to see how the claim itself holds up. My first concern with his view involves this question: Do the instances of goodness, in a world of universals, really have to have a cumulative weight? Butchvarov and consequentialists generally seem to think that they do, but this seems to me to be more a matter of conviction than argument. It seems at least plausible that there could be various instantiations of goodness, and that that is the end of the story. Secondly, even if the instantiations of goodness do have a cumulative weight, why does this need to be significant, morally or otherwise? Why must the weight of "disvalue" bear any relation to the weight of "value", for instance? To suggest that it must is to suggest that they are similar sort of things. It also seems to require a set of metaphysical scales in order to determine their relative weights. Butchvarov claims that to argue from this "incommensurability" is conceptual confusion, but he does not justify this. Again, his account is certainly possible, but it is not obviously true. More argument is required.

My third point is a broader one, and it is that Butchvarov's use of the term weight makes his claim somewhat specious. Everyone would agree with him that something of more weight outweighs something of less weight. But what, precisely, does it mean in this context? Perhaps Butchvarov is referring not to literal weightedness, of the sort possessed by concrete particulars (which can be measured in precise units), but more to weight as in the strength or force of an argument. But if this is so, then his argument risks being circular: The consequentialist consideration is superior because it has more weight, and it has more weight because it is a superior consideration. Rather, the only sense in which 'weight' would be significant is if it relies on something like a points system, where good consequences could outnumber bad consequences, or where bad points were subtracted from good points, or some such. But there is nothing obviously correct about
this approach. Far from it. Why could a moral property not come in a form of “you just can’t do this”, for instance, instead of “10 points of you shouldn’t do this”? There is no ‘conceptual confusion’ in adopting the former approach, as Butchvarov would have us believe, there are simply different views on which moral properties exist and on the metaphysical relations between them – and it is by no means clear that Butchvarov’s account is superior.

But there are yet more reasons to be sceptical of Butchvarov’s approach. When references are made to weight, it seems to have something to do with the number of instantiations (as noted, to avoid this risks circularity), where the greater the number of instantiations the greater the weight. But this can apply to more than just moral properties. We can also say, for example, that possible worlds differ in respect to their weight in redness. It is easy to see how someone who is psychologically pro-red may be motivated to bring about the most redness possible, just as someone who is pro-good may be motivated to promote that property. Yet, the amount of redness (or potential redness) in the world as a whole does not alter the natural laws that apply to redness in one particular place, so why should the amount of goodness be able to do this (as would occur if the overall amount of goodness could justify the sacrificing of particular examples of goodness)? A red patch is no less red for the fact that it is surrounded by blue – light still bounces off it in the same fashion, and appropriately constructed organisms will still recognise it as such. Consider it this way: Deontology, as a rule, does not prohibit us from acting to maximise the good (nor does it compel us to), it simply says that there are certain actions that cannot be performed irrespective of consequences. Within the boundaries that we cannot, say, lie, cheat, steal or kill, we can act as we please, comforted by the fact that the actions we are forbidden to perform tend to be small in number when compared with all those that we are permitted to perform. Consequentialists, though, do not simply accept the broad aim of maximising the good, they refuse to accept that there can be any other legitimate motive for our moral behaviour. I hope to demonstrate that this is inadequate.

Consider a far-fetched example, a possible world in which redness, rather than goodness, is the only value property, and consider also what this means if Butchvarov is right about value. Basically, people would be under an obligation to ensure that there was
as much red as possible in the world. For example, it would be the case that a centuries
old art masterpiece with only a splash of red on it ought be destroyed by having the rest
of it painted red. It would be the case that people who do not have red hair should be
replaced with those who do have it (if this is productive of the greatest amount of red).
This is certainly an extreme scenario, but I contend that these implications are not simply
the consequence of redness having this new value – they are consequences of that and
mistaken thinking. Butchvarov would seem committed to holding these views if redness
were to replace the good, and I think that this demonstrates that he is wrong in thinking
that his conclusions are straightforwardly obvious. If these consequences do not follow
from redness being valuable in a possible world, then they should not follow from the
good being valuable in our own.

There is one final point that I wish to make about the alleged self-evidence of the
importance of weight. On consequentialist views there are no specific actions that are
strictly forbidden, only the general action of acting in a way that is not most conducive to
the good. There is no general injunction against lying, cheating, stealing and killing.
Presumably, if there are two actions open to an agent that are equally productive of good
(ones which, if we follow Butchvarov, result in goodness of the same weight), and where
there is no action available to them that would produce more, then the agent must
perform one of these, but which one is left to him. Yet consider what this means. It means
that one person may kill another not only if that killing results in more good, but also if it
results in the same amount of good that would have occurred otherwise (assuming that
there was not a more productive option available). There is no way for the
consequentialist to avoid this unappealing consequence. If they argue that actions do have
some intrinsic value, then I shall simply respond that that amount of intrinsic value was
taken into account when considering the various amounts of resulting good. If they try to
tack on some further bit of good that results from not killing the person, I will tack on
another to the results of the killing. All they would be doing is trying to make the two
situations unequal in respect to goodness, thereby trying to avoid the central issue of what
happens when they are the same.
What I hope to have demonstrated is that Butchvarov's conclusions, which he takes to be obvious, do not follow simply from the existence of value and disvalue properties. For them to follow, we would have to accept that good is a stranger type of property than we had previously imagined - I don't rule out this being so, but Butchvarov's argument, and arguments about weight generally, are not trying to convince us of this, they are attempting to show that their conclusions follow from something we all agree on. They don't. I certainly don't claim to have made any definitive points in the above. It seems to me, assuming only the truth of universals and the existence of some moral properties, that it is an open question whether or not consequentialism or deontology is true. I think the question has an answer, and that we can discover it, but that more argument is required. I concede that consequentialism can be made to look plausible if we accept realism about universals, but I also think that deontology can work just fine.

B2.2.3

Now to tropes. This section will introduce the combining of a deontological ethical with a trope metaphysic. It will only be a sketch, as it is the task of section D of this thesis to develop the account more fully.

When we looked at deontology on universals, we considered a handful of moral properties, both valuable and prescriptive. In particular, we looked at the value property of goodness, and the prescriptive properties to-be-doneness, to-be-pursued and rightness, and their disvaluable and negative prescriptive opposites. The same basic approach holds here as well. We will again be relying on supervenience (remembering that if a y is to supervene on an x, this means that any time there is an x there must also be a y). The deontological example we looked at earlier was the possibility that wrongness or not-to-be-doneness supervenes on murder. If wrongness does supervene in this way (and the qualifications that were made earlier about specificity apply just as much to a trope account as they did to a universals account) it means that any time a murder trope comes into existence then so too does a wrongness trope. This is all quite straightforward, the main issue that needs to be dealt with is whether tropes present the same problems to deontology as they did to consequentialism.
I contend that the two problems that were identified for consequentialism on tropes do not apply here. Firstly, deontologists do not talk in terms of maximisation, and they would surely welcome the fact that the supervenient moral properties must be the same whenever the subjacent non-moral properties are. It is, after all, what it is to be a deontological theory that the moral relates to the non-moral in this law-like way. In short, supervenience no longer proves to be a problem, but an asset. The related problem involving exact compresence (where a supervenient property must exist in exactly the same location as all of its base properties combined, being neither more limited nor more expansive) is also no longer a problem. Not-to-be-doneness, for example, would supervene only on properties involved in an action, and would apply only to that action. Likewise, continuing with our earlier example, wrongness would depend only on the murder for its existence, and would apply only to the murder. Deontological accounts may differ in respect to what they see as bad, wrong or not-to-be-done, but the basic relationship between the valuable and the prescriptive properties, on the one hand, and the non-moral properties, on the other, would be the same.

Secondly, deontology on tropes does not require the rather dubious relations between the actual and possible worlds that seem to be required by a trope-based consequentialism. Everything that a moral trope depends on for its existence exists in the actual world and in the same location and at the same time as the moral trope. The fact (unlikely, though possible) that no valuable properties may be instantiated at a particular time is no problem, as the relevant properties would come into existence when required. Where, on a consequentialist view, the good was required to exist for someone to incur moral obligations generally, on a trope account something (be this an action, a situation or a person) that is good will instantiate goodness when it itself comes into existence, and prescriptive properties would then be related to this good. There is nothing fancy, or worryingly unparsimonious, here.

As noted, this has been but a sketch. A more substantial account will be provided in section D.

We have now examined each of consequentialism and deontology from both a trope and a universals perspective. The first important result of this study is that if we were to find
conclusive proof that properties exist and that these are universals, this would not in itself resolve the debate between consequentialism and deontology. It seems to me that both of these ethical approaches can be made to be consistent with universals. The second important result is that the situation is quite different when it comes to tropes. If trope theory were confirmed, then I argue that this would be enough to rule out consequentialism, even if it is not enough to establish a deontic truth (one may still be an irrealist or sceptic).

**B2.3**

Philip Pettit (1991, p. 230), in the same introductory piece on consequentialism as discussed above, makes a claim regarding the nature of “what is good or valuable” in moral theories. He says that this might be one of many properties (such as happiness), but then notes,

The possibilities are endless, since about the only commonly recognized constraint is that in order to be valuable a property must not involve a particular individual or setting essentially; it must be a universal feature, capable of being realized here or there, with this individual or that.

(It should be stressed that though Pettit made this comment in a piece about consequentialism, it was meant to hold of all moral theories). If Pettit is right, and it is indeed commonly recognised that morally-relevant properties must be universal, then this current work could be said to rock the foundations of moral theory as traditionally conceived. I am reluctant make such a boast, however, and would prefer merely to examine what he says.

Let us break down his position. He talks of properties as being universal features, but on trope theory (I think his claim clearly assumes traditional universals, but let us consider if his point applies more widely) the term *property* can be applied either to individual tropes (such as a particular redness), or to collections of suitably resembling tropes (such as to the class of all rednesses). While there is no hope of properties conceived in the first manner meeting Pettit’s criterion, perhaps the second (properties as collections of related tropes) is compatible – especially on a trope theory such as
Bacon's, which not only admits properties as certain collections of tropes, but universals as collections of tropes as well. But if not defying the letter of Pettit's claim, this would certainly defy the spirit. Tropes clearly do "involve a particular individual or setting essentially". On tropes, we are interested in my heat, my happiness, my good, Fred's heat, Fred's miserableness and Fred's good; while multiple things can be good or happy, my good can only appear in me. This is so even if Baconian universals can be abstracted away from this (remember that, on Bacon's view, the only real difference between individuals and universals is the way that the tropes that make up each are related to each other). While Pettit clearly thinks that deontological theories must also involve universal properties, perhaps this limited take on properties nonetheless made consequentialism seem more plausible to him.

I hope that it has been adequately demonstrated that moral theories do not require universals. Some forms of moral theory (notably consequentialist ones, as we have seen) do seem to. It is certainly interesting to note that Pettit made of moral theories generally the same point that I wished to make about consequentialist moral theories in particular.

**B3 Moral Properties: Universals vs. Tropes**

In metaphysics, one of the main measures on which competing theories are compared is in regards to their capacity to explain the world. This subsection aims at addressing the view that there is no great difference between theories of tropes and theories of universals in respect of their explanatory power. It has at times been argued of tropes that, in addition to certain metaphysical benefits, they can be used to explain everything that universals can. If this is true, it would seem to be problematic for my assertion that trope theories cannot accommodate consequentialism. In particular, we will be considering some of the claims of Bacon.

As we have seen, Bacon (1995, p. 14) has argued not only that universals and tropes can do essentially the same work, but that universals can even be constructed out of tropes, and held together by relations of similarity (he claims that "such a bundle [of tropes] is a one over many, even if it isn't one atom fully and indivisibly shared by all its instances"; p. 4). The benefit of looking at it in this way comes when we deal with
predication: Our words have meaning because the predicates we use refer to universals (certain classes of tropes), and these universals/classes are constructed by relations of similarity. The problem I have with these universals is that they do not seem to have any particular metaphysical function—nothing outside of predicates seems to be explained by them. Campbell disagrees with Bacon on this, and considers such universals to be non-genuine because they cannot be completely instantiated in multiple places at the one time, but Bacon (p. 19) suggests that "the dispute is ultimately merely verbal". Though I am more inclined to side with Campbell in this verbal dispute, I agree with Bacon in that this is all the disagreement amounts to.

But what of explanatory power of tropes (whether or not these are thought to form universals)? Bacon, in personal correspondence, has suggested to me that any state that can be explained in terms of universals can also be explained in terms of tropes. He used the example "any good human is kind", which, ordinarily, could be presented as

\[ \forall x \ (Gx \land Hx \supset Kx) \]

and argues that the same can be expressed using trope theory in the following manner:

\[ \{g_1, g_2, \ldots \} \cap \{h_1, h_2, \ldots \} \subseteq \{k_1, k_2, \ldots \}. \]

Following this, it is easy to see how a consequentialist moral philosophy (complete with value and prescriptive properties) could be described, something like

\[ \{g_1, g_2, \ldots \} \cap \{h_1, h_2, \ldots \} \supseteq \{t-b-m_1, t-b-m_2, \ldots \} \]

(whence every human is under an obligation to maximise goodness). Yet the issue at hand is not whether we can describe a situation once it exists, the issue is whether the existence of the situation is metaphysically viable to begin with.

Even contradictions, at a superficial level at least, can be described (though we might dispute whether the description has any real content). The fact that we can write the claim "any good human is bad" as

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\( \{g_1, g_2, \ldots\} \cap \{h_1, h_2, \ldots\} \subseteq \{b_1, b_2, \ldots\} \)

does not mean that it represents a viable way that the world could be. I am prepared to concede that if we knew that instances of to-be-maximised numbered among the world’s occupants, then trope theory would be able to provide a description of this state of affairs. But we should not take it for granted that the world can be this way in the first place.

But my main rejoinder is this: My earlier arguments actually did not claim that properties that can exist if a universals account is the correct one cannot exist if trope theory is true. The claim I made was more nuanced, and was that these properties, if they existed, would not result in a consequentialist ethic. There were many things that I argued a trope theory could not do (as a result of the non-existence problem, for instance), but the only reason these were being considered in the first place was because a straightforward shift from universals to tropes did not produce the desired result. The mixture of properties that resulted in a consequentialist ethic on a universals theory seemed to result in a view that was dangerously close to egoism on a trope account (the alternative approaches that I then considered were looked at out of the principle of charity, and not because they were equivalent to the given universals account).

So, my claim had more to do with the moral implications of certain properties than with the properties themselves. Yet these implications were significant and I must say more in response to the view that the two can do the same work. The point I wish to make now is that moral properties (given their nature) are a special case of properties, and ought be considered differently from other properties. But, by arguing that moral properties are a special case of property, I do not wish it to be thought that I am arguing that such properties, as I conceive them, are different in nature not only to other properties, but to ordinary conceptions of moral properties. Rather, I hope to establish that, given their nature and the tasks assigned to them by philosophers, moral properties must be different. Initially, this should not pose too great a problem; after all, mental properties, if they exist, are quite different from their physical cousins.

I contend that, in the case of moral properties, there is an important difference between there being the one universal that can be completely present in multiple places at
the same time, and there being multiple tropes that bear a relation of similarity (perhaps exact similarity) with each other, and which (debatably) may be said to compose a universal. This difference doesn’t manifest itself in considerations of many ordinary properties. The case of red provides a good example. There is no discernible difference between the patch of red in front of me depending on whether it contains (wholly) a universal, or is a part of one (so long as it is either a property or a property instance). The reason? We are dealing with a simple is, an account of something that is in front of us. When it comes to moral properties, however, our task is somewhat different. No longer do we wish to explain something that is plainly before us, we now wish to understand the nature of something that is not so clear – a something that doesn’t just relate two things, but which dictates what that relation should be.

Sparshott (1958, p. 127) makes a similar point to this when he discusses the difference between the qualities of goodness and yellowness. He argues that “the reason why we do not argue about yellowness is not that it is never in doubt… but that it does not usually matter enough to be worth arguing about”. He suggests that if yellowness were important (he gives the example of a court case in which the outcome depends on whether a light was a warning red or simply yellow) then debates over whether something was or was not yellow would take on much greater importance. The central point for Sparshott is that “questions of goodness are not, like questions of yellowness, mere questions of classification, but are grounds for decision” (p. 128). While Sparshott does not deal in the distinction between universals and tropes, his argument helps demonstrate that moral properties are different from other properties, and it leaves open the possibility that this difference may prove to be important when we do consider the difference between universals and tropes.

Even though two tropes of goodness may closely resemble one another, and even though they may be related by a relation of exact similarity, they are nonetheless distinct metaphysical entities. It would be just as if there existed a person who was exactly similar to myself (except for location and certain other relational properties). Assuming that he was not a relative of mine (brother, cousin etc.), the fact that we are so alike would not result in my having special obligations towards him. If someone were indebted to me, he or she would not be under obligation to pay half that debt to my counterpart (or, worse
still, to repay the same debt twice). If two people literally are the same, however, (in the sense that Fred Smith and the bank manager can literally and numerically be the same person), then things are different. There is a great practical difference between Fred Smith₁ and Fred Smith₂, on the one hand, and Fred Smith and the bank manager on the other.

If you were a police officer assigned to protect Fred Smith, then you would be just as obligated to protect him when he was wearing his bank manager’s hat as when he was acting in his capacity as chairman of the local canary breeders association. Indeed, even if the officer’s brief had been to protect the manager of the High Street bank, the obligation would apply to Fred Smith in all his capacities (though not, perhaps, if he ceased to be manager). The defence, “you didn’t say anything about the canary breeder’s chairman!”, would be no good here. The comparison offered with properties may not be a perfect one, but I believe it is instructive in that, in both, we are dealing with issues of obligation and related moral concerns. If Fred Smith₁ quit the bank, Fred Smith₂ would probably be a perfect replacement (barring many relational properties, they are identical – if one can do something, chances are that the other can do it just as well). But sacking Fred Smith₁ is not the same thing as sacking Fred Smith₂.

Issues such as these do not arise with non-moral properties. Philosophers don’t spend their days worrying over whether their obligations are to particular patches of red, or to redness itself (or to rednesses everywhere). But when it comes to a universal good or particular goods, or to humanity itself vs. human instances, this is precisely what they do. Of course, there are some non-moral similarities. If you are five feet from redness trope A, and redness trope B (which bears a relation of exact resemblance with A) is five feet from A in the other direction, you are not five feet from B. Substitute obligated to for five feet from, and goodness for redness, and we can see that if you have an obligation to a particular goodness trope, A, and there is another goodness trope, B, with which A has a relation of exact similarity, you are not, in virtue of your obligation to A, also obligated to B.

Let us consider another analogy. Suppose that a husband and a wife inherit a house in common (i.e. both their names are on the title deed). This is very different from there being two identical houses that they each inherited one of. When the house is
owned in common, it is proper that the consent of both be needed in order for the house to be renovated or sold. In the case of the two houses, the owner of each is entitled to do with that house what he or she will. I consider this to be an analogy (though, I stress, only an analogy) with the case of a common humanity verses multiple human tropes (even if these tropes can be said to form a universal). I think the analogy helps us see how there is a difference between many beings' (humans) wholly containing a universal, and their each having a trope. (It could be objected that in the common ownership case, neither the husband nor wife could be truly said to own the whole house. True. But neither could it be said that, for example, the wife only owns the bathroom, the kitchen and the master bedroom).

Campbell (1990, p. 4) has pointed out that "If you are burnt by a hot wire it is, after all, not heat in general, or wires in general, or the other characteristics of this wire, but the heat of this wire which does the burning". It makes sense, then, that if it is this heat trope that burns me, and that sharpness trope that cuts me, then it should be this goodness trope that (say) obligates me, not to goodness tropes everywhere, but to this particular one. This is like the case of an astronaut being pulled towards a planet by its gravity; it is that particular gravity (not gravity itself) that pulls the astronaut in, and to that particular planet (not to planets everywhere – although their gravity may also have an effect). Likewise when it comes to the relation of likes. Say that I like a particular shade of green that I see in front of me now (and say that this shade is a single trope). It may be perfectly true that this shade of green is in a relation of exact similarity with countless other tropes throughout the universe, and it may even be true that, were I to witness these other tropes, I would like them too. But the relation of likes (or, at least, this particular relation of likes) exists only between myself and the particular trope that I see.

If we were talking about genuine universals, then it would be a different matter. It would probably be heat itself (as present in the wire) that burns me, and sharpness itself (as present in the knife) that cuts me. Maybe it would even be that shade of green itself that I like – if not, a universalist could talk of my liking the particular object that contains that universal property (though note that this would be a very different relation). And, lo and behold, it would be goodness itself that obligates me, probably to goodness itself –
i.e. not to goodness as present in Fred, or as present in this order of nuns, etc. Any obligations I have towards particular people (or situations) that provide a vehicle for the universal property could be explained in a derivative sense (for example, the best way to maximise goodness itself may well be to assist particular occasions of goodness).

A final point to bear in mind: No matter how similar theories of universals and tropes may be in that they both explain the operations of the same world (this is a core requirement of such theories – that they not be incompatible with what we see to be the laws of nature), they are actually very different theories, and no amount of argument can change this fact. A redness universal (as traditionally conceived) is very different from a redness trope, and is likewise very different from a universal constructed out of redness tropes. Just as it does not follow, from the fact that a mechanised box-packer achieves the same thing as a human one, that the two types of box-packer are similar in any significant way, it likewise doesn’t follow, from the fact that two metaphysical theories provide the same result, that they are similar in themselves, or that they do something in essentially the same manner. Applying the name ‘universals’ to collections of tropes (which I have no quarrel with in itself) no more makes them like traditional universals than does calling a mechanical box-packer ‘Mrs Smith’ make that box-packer like a traditional human employee.
SECTION C: RIGHTS

*The criterion for a natural right must be a natural property. A natural-rights theory must assign its basic rights to individuals in virtue of their possession of some natural property.*


Having examined moral properties, I now turn to what I consider to be a subclass of these: Natural rights. I have two main goals in this treatment of natural rights. The first is to demonstrate that certain theories of natural rights rely on universals, and that this reliance affects the conclusions that are drawn about such rights. In particular, I will be focussing on theories that fall within the tradition of Aristotle and Thomas Aquinas. The second, and likely more interesting, goal is to see what natural rights would look like if both a typical version of trope theory were true and if rights were tropes. I will be suggesting that tropes might resolve the debate between positive and negative rights.

In order to demonstrate the above, I will identify several different ways in which an account of rights may depend on universals. The first way involves a theory invoking a universal property as the *grounder* for its rights (humanity or human nature often serve this purpose). Many theories, indeed whole traditions, have taken this approach (this is where the Thomist approach fits in). The second way is demonstrated when a theory is dependent on *concepts* that are generally associated with belief in universals (I am thinking here primarily of equality, which I will suggest can have different implications depending on one’s metaphysic). Again, this is quite common. The final, and perhaps the most obvious, of these ways is if rights are seen to actually *be* universal properties. Though obvious, I have found no theory that explicitly takes this approach. Needless to say, particular theories need not be limited to one of these categories.

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17 I regard these as a subclass because rights involve prescriptions, and we have seen that prescriptive properties are a type of moral property. I will leave open whether or not there can be non-moral prescriptive properties (Kant’s hypothetical imperatives, perhaps).
C1 Rights and Properties

C1.1 Defining Rights

The first thing to do is to make clear exactly what we mean when we speak of rights. This is important because, although ethical discourse (scholarly and otherwise) is replete with mention of rights, it does not follow from this that everyone is operating under the same understanding.

At a basic level, rights are thought to be claims or protections possessed by, or applying to, individuals\(^{18}\). These individuals are usually thought to be limited to human beings, but they may also include some or all animals. While, in the case of many rights, it is thought that these will apply equally to all right-holders, variations may hold according to the likes of age or gender (whatever one’s views on abortion, it is unlikely that anyone would think that a man has a right to one, for instance).

According to Narveson (1984, p. 161), there are two main points to note about rights. Firstly, they are “interpersonal, having to do with actions of some that affect others”. Secondly, “rights have the following important property: that although they can be had by either patients or agents, yet rights are centrally on the “patient” side of the centrally important transactions” (‘agents’ are defined as those who perform an action, where ‘patients’ are “those affected by a particular action”). For example, though one individual may be said to have a right to take something from another (such as a child’s right to take the means of its subsistence from its parents), more often individuals are thought to be protected by their rights from others taking something from them (the thief taking some money, the assailant taking a limb, the kidnapper taking one’s freedom). Narveson (1984, p. 161) also explains that rights in one person imply “duties or obligations” in one or more others, and suggests that because of the distinction “between rights to do and rights to have... perhaps we can talk more generally of rights that certain predicates apply to A: A’s right is the right that some F be true of A, ‘F’ being a variable”. We will exam what these predicates might be, below.

\(^{18}\) Certain traditions are inclined to attribute rights to communities conceived of as a whole; in such a scenario, the rights would either be claims that the group has against something external to it, or claims that the group has against its individual members.
Another theorist, Almond (1991, p. 262), identifies four different applications of rights: Claims, powers, liberties and immunities. Claims are those rights that involve duties in other specified individuals (Almond gives as an example the repaying of a loan). Powers are those which can "affect the rights of other people" (this is what happens when one gives property to another person). Liberties are involved when the law does not place "potentially burdensome requirement[s]" on individuals (such as by not forcing someone to give evidence against his or her husband or wife). Finally, immunities are essentially protections (Almond gives the example of a legal requirement that ensures that workers are allowed to be members of trade unions).

While we will not be focussing on any of the definitions or categorisations just given, it is helpful to be aware that there can be many different things that are meant when people refer to rights.

**C1.2 Natural Rights**

One of the major distinctions made in discussions of rights is that between natural and non-natural (or conventional) rights. This distinction has only implicitly been made in the forgoing. Non-natural rights involve the likes of legal rights (such as the right to a fair trial), and rights associated with membership in particular organizations (all members of the canary breeders' association may have a right to be heard when debating policy positions, for instance). We are not concerned with these types of rights, here. Instead, we are interested in rights that are thought to actually exist in the world; ones which would not cease to exist if legislation or convention failed to recognise them.

Historically, natural rights have been associated with theories of natural law (Buckle 1991, p. 166). Natural law is often thought to be law that is God-given (although there can be other accounts), that exists in the fabric of the universe, and which may be knowable through reason. Human minds can recognise, or fail to recognise, this law, but they do not author it. Natural rights, as we shall see below, are often described as rights that individuals have in virtue of their nature (though there is considerable disagreement as to what this nature is). Whenever people speak of fundamental human rights, they are referring to a class of natural rights. It is important to stress, however, that though natural
rights are often seen to be fundamental, they can also be derivative. Individuals might possess derivative rights on a consequentialist theory, for example (I might have the right to perform $x$, say, because it will be productive of the most good). While many of the theorists we will examine deal with natural rights that are non-fundamental, the account to be developed at the end of this section will deal with fundamental rights.

The natural rights we will be looking for will be of the same ontological status as the moral properties we examined in section B. Unfortunately, few works on natural rights elaborate on the metaphysics that must underpin these rights. This makes our task harder by forcing us to read between the lines in order to determine what a particular author’s view on the metaphysics of rights is. We are justified in doing this because natural rights must be founded in some metaphysical theory or other. Though the ethicist or political theorist may pluck them out of the world of metaphysics completely assembled, the product is only as good as the metaphysical theory that produced it.

Mine is certainly not a lone voice in arguing for a clear study of the metaphysics underwriting rights theories. Samuel Scheffler (1976, p. 62) has written,

Contemporary philosophers who choose to work within the natural rights tradition need to explicate their use of natural rights terminology. Given the metaphysical associations of the tradition, such philosophers must explain what they mean by assigning rights to people. They must, further, say something about the source of these rights...

As indicated, there has not been much discussion about the ontological status of rights in the literature, but we will now consider some arguments that I have found.

**C1.3 Natural Properties as Criteria for Natural Rights**

Firstly, we shall look at two accounts of the relationship between natural rights and natural properties, one given by a sceptic (L. W. Sumner) and the other by a believer (Ramon M. Lemos). I shall argue in the case of Lemos that these properties are universals. After this we shall examine in some detail the ‘Thomist’ account of the relationship between natural rights and universal properties. It is important to bear in mind when considering this issue that when theorists write of the relationship between
natural rights and natural properties they mean to contrast these properties with those that are more conventional or social in nature (such as those dealing with social status or relationships), rather than with Moorean non-natural properties.

As indicated, Sumner is a critic of natural rights who nonetheless examines what would be required for such rights to obtain. Sumner (1984, p. 25) states that the “criterion for a natural right must be a natural property”, and that a “natural-rights theory must assign its basic rights to individuals in virtue of their possession of some natural property”. Sumner qualifies that in order for a property to be a natural one it must be independent of “institution or convention”\(^\text{19}\). Sumner (pp. 25-26) says of natural properties that it is not adequate for the properties to be “logically independent of the existence of social institutions or conventions”, they must also be causally independent, and the latter does not automatically result from the former (he mentions, as an example, the relationship between power and education: The latter does not entail the former, but the former can be a consequence of it). Conventional properties, on Sumner’s account, are those that, while true of people, result from the situations we find ourselves in, and not from something crucial to our being – he gives the examples of citizenship and knighthood (p. 25), and contrasts these with “height, blood type, race, and species” (natural properties). Recognition of this difference effectively limits the number and type of rights that could be said to exist naturally (a right to education, for example, cannot be a natural one, for education is dependent on social institutions, and one could not have a natural right to a good that is not itself natural).

Sumner’s motivation in exploring the relationship between natural properties and natural rights is to develop a position that he can then argue against (he had discovered that his opponents had not done this for him). Despite the issues I have with his boxing-bag approach, I cannot but lament with him the lack of well developed accounts by proponents of such theories – it is always to the detriment of an issue when the accounts are only provided by those opposed. Sumner (1984, p. 25) writes,

\(^{19}\) This is sensible. He also makes the bizarre claim that an individual’s possession of this property must be “empirically ascertainable” (p. 25) in order for it to be natural, which makes me think Sumner is completely unfamiliar with the very basic distinction between metaphysics and epistemology. It should be apparent that something can exist even if we do not know about it, and even if it is impossible for us ever to be able to know about it. This doesn’t mean that we should credit with existence things that we have no knowledge of, merely that, in the case of properties, the fact that we cannot know of them does not mean they are not natural.
Assume... that each such principle takes the form: all and only individuals who have property P have right R. Possession of P is thus both necessary and sufficient for possession of R. P need not of course be what we would ordinarily think of as a single property; it may be a conjunction or disjunction of such properties. And different rights might be tied to different properties. Call the property P that is tied to some particular R the criterion for R. The criterion for a right determines the distribution of that right: the class of beings who possess the right.

More explicitly than most rights theorists, Lemos demonstrates how his theory of rights is grounded in the metaphysics of properties and, I contend, universals. Lemos (1982, p. 137) argues that

The etymology of the expression "natural right" suggests that the natural rights people possess are grounded in or possessed by virtue of their nature. This can be put by saying that the natural rights a person possesses supervene upon certain aspects of his nature. Thus given that someone possesses certain natural properties \( f, g, h \), he thereby also possesses a certain natural right \( x \). His possession of the natural properties \( f, g, h \), is a sufficient condition of his possessing the natural right \( x \), so that his possession of the natural right \( x \), supervenes upon his possession of the natural properties \( f, g, h \).

Lemos then goes on to argue that it does not follow from this that the same natural rights are possessed by all people, but that, and here he divides natural rights into two categories, "universal rights are those natural rights people possess simply by virtue of their humanity, whereas nonuniversal rights are those natural rights people possess by virtue of them satisfying some condition in addition to their humanity". He gives us the examples of the right to life and the rights to liberty. The former may be one we have simply because we are human, while the latter may require something in addition to this (so that it would not include the likes of children and certain mentally handicapped people).

The biggest clue that Lemos’ argument relies on universals, comes when he writes (1982, p. 138),

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Since the universal natural rights people possess are grounded in or supervene upon their nature as persons, no person can possess such a right unless every other person possesses precisely the same right. People do not differ from one another simply as persons or in their humanity; instead, as persons they have a common humanity and are therefore alike. There is a certain minimal humanity that all people possess in virtue of their being human, the possession of which is a necessary and sufficient condition of their being human.

Terms such as ‘precisely the same right’ and ‘a common humanity’, and the statement that “[p]eople do not differ from one another simply as persons or in their humanity” while individually being far from conclusive, together do lend considerable weight to my contention that Lemos’ theory is founded on universals.

C1.4 The Thomist / Aristotelian Approach

We shall now turn to examining a tradition that deals with rights in a way that explicitly has them depend on universal properties for their grounding. While there are many properties that may be argued to be the grounder for our possession of rights (such as consciousness, pleasure, pain, and countless others), the most commonly considered one is that which is variously called ‘human nature’, humanity, or, more poetically, ‘our common humanity’. It is this property that is the focus for theorists operating within the tradition of Thomas Aquinas and Aristotle (they operate in this tradition both in respect to their answer to the problem of universals, and in their search for the essence man).

It is worthwhile spending a moment familiarising ourselves with this perspective. As we will see below, both Yves R. Simon and Raymond McNeely invoke the metaphysical positions of Thomas Aquinas when developing their accounts of human nature and rights. Aquinas’ metaphysic, in turn, relied heavily on that of Aristotle (Kretzmann & Stump 2005, pp. 36-37). Aristotle, on a typical interpretation (relying on his Metaphysics\(^2\)), was an immanent realist who adopted what would now be called a substance-attribute approach (whereby there must be something particular in an object for the universal properties to be present in). This was the role played by substance, which

\(^2\) The *Metaphysics* is particularly challenging material, and is open to competing interpretations. The interpretation presented here is a typical one, based on that of Barnes (1995).
Aristotle viewed as a ‘this so-and-so’ (Barnes 1995, p. 91), for example, this man. The central idea was that a substance (essentially, an object apart from its properties) must be a particular (hence the ‘this’), but it also must be one of an identifiable type (hence the ‘so-and-so’). The ‘so-and-so’ also had to be especially pertinent to the individual. So, while both man and white may be properties, a white man, in essence, is a man, and not a white thing. Whenever dealing with Aristotle’s accounts of universals there is the age-old confusion over whether he is best categorized as an immanent realist or a nominalist\(^{21}\) (see Tweedale 1987). This problem will also manifest when dealing with the Thomists. The consensus nowadays seems to favour the realist alternative for Aristotle, however, and I will be arguing that the same is true of the Thomists we will be considering.

**C1.4.1 Yves R. Simon**

Perhaps the most explicit dealing of universals in regards to rights is Simon (his comments are just as relevant to section D, where we will look at equality and humanity in more detail). He claims that whenever we deal with the equality of men and human nature that we are in the realm of the problem of universals (Simon 1951, p. 197). He writes (p. 201),

> On the basis of such a philosophy of universality, to speak of the common nature of men makes sense; to speak of a natural foundation of the brotherhood of men makes sense; to speak of natural rights makes sense; to speak of rights belonging to all men on account of the unity of their nature makes sense; to speak of equal justice for all makes sense; but none of those things makes any sense in the framework of a consistently nominalistic philosophy.

Both the time in which his work was published (1951) and the rest of his argument makes it clear that by ‘nominalistic philosophy’ Simon meant the denial of universals (it can simply mean the denial of properties; as we will see below and in section D, tropes may well provide equality, but not fundamental equality). A rejection of universals, then, is a rejection of rights. Simon then observes that “[i]f theoretical ideas were always allowed to unfold their consequences in the actual course of events, the universalism of the rights

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\(^{21}\) A simplification would be that the *Categories* supports a nominalist interpretation, whereas the *Metaphysics* indicates that Aristotle was a realist.
of man would not have come into historical existence at a time that was the golden age of nominalism” (p. 201). He is referring here to the fact, among others, that the American Declaration of Independence “was written by a disciple of Locke”, a reputed nominalist, at a time when universals were out of favour. This point bears out one of the starting contentions of this thesis, that ethics and metaphysics, despite their necessary connections (whereby ethics depends on metaphysics), have tended to be dealt with without reference to each other. Simon (1951, p. 201) clearly thinks that both ethics and political philosophy must be grounded in metaphysics, and the comments he makes seem to imply that the adoption of a nominalistic view, at least so far as it is concerned with human nature, is morally sinister.\(^{22}\)

Simon, issuing the now familiar caveat, claims that “[a]sserting the reality of human nature, one and the same in all men, does not imply belief in any Platonic type” (p. 200). Instead, though he does not use this term, his universals will be of the immanent variety. He argues that the universal human nature exists within individuals “in the state of [their] individuality” (p. 200), rather than separate from them. His explanation (pp. 199-200) is reminiscent of Aristotle,

[The analysis of a nature will never yield, as a feature to be included in a definition or derived from it, the predicate “universal” or the predicate “individual”. Let “man” be the universal under analysis; we may consider the features constitutive of its definition; then the properties connected with its differentia; then the properties connected with its genus; then its remote genera, etc. We shall find such intelligible features as rationality, progressivity, sociability, morality, sensibility, life, corruptibility, etc., but never “individuality” or “universality”; these are not features but existential modalities. A nature is not, of itself, either universal or individual, and this is why it is capable of assuming the state of individuality in the real, and, in the mind, a state of universality produced by a process of abstraction and positive unification.

A full reading of Simon’s argument suggests that this last sentence should not be read as implying that universals do not exist except as mental concepts, but that it is only in the mind that they achieve a ‘Platonic’ existence (as indicated, the rest of his comments are

\(^{22}\) For example, “if our heart is dedicated to the ambition of crushing a part of mankind, a theoretical analysis which renders meaningless the concept of the unity of nature is likely to be grasped with cagerness and to develop its implications with strict logic”.

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consistent with a *universalia in rebus* approach). This interpretation is backed up by the other quotes from Simon given above, as well as by the references he makes to Aquinas (p. 198). I conclude that, for Simon, ‘man’ is a universal property, on an immanent account, that is more fundamental in the objects that instantiate it than are the likes of colour qualities and personality traits.

Simon examines the issue of universals as a prelude to a discussion of ethical and political issues, including rights. Though he does not express it in this way, Simon appears to believe that rights are natural but derivative. The rights seem to be dependent on the universal ‘man’, but not in the straightforward way in which we have elsewhere said that moral properties may supervene on certain base properties. Instead, as one of the earlier quotes indicated, he speaks “of rights belonging to all men on account of the unity of their nature” (p. 201). This is significant because it suggests not that every man has rights because each instantiates the universal ‘man’, and because rights, say, supervene on this universal, but that the rights are present in individuals precisely because the universal ‘man’ is shared. These two positions are very different: In one case it is the nature of the instantiation that is important, in the other case it is the fact that it is something had by more than one individual (this is not to say that ‘man’ would be unimportant to Simon if not for the sharing).

There is a similarity here between Simon’s account of ‘man’ and Moore’s account (examined in B1.1.1) of ‘the Universal Good’. Moore had argued that it was confused to aim for the good of any one individual (as an egoist does), because this would suggest that the good of that individual was thereby identical to the Universal Good, which was absurd. It was explained how a view such as Moore’s, which depends on universals, can lead to a consequentialist ethic. When it is a universal property (rather than a concrete particular) that is valuable, we have a situation whereby the property itself is more important than that which instantiates it. From this it makes sense that the number of instantiations achieved overall is of more concern than the fate of a particular instantiation. Simon is arguing something similar to this, although the property that he finds valuable is a naturalistic one. To him, it is the universal essence of man that is of prime importance. Sharing in this essence grants equal rights to individuals, but it also means that the good of an individual can be sacrificed if it is in the genuine best interest
of man generally. To see how he develops his argument, we will consider the accounts that he gives of certain rights.

The rights that Simon pays most attention to are rights to life (specifically, he refers to "rights corresponding to man's tendency to survive"; Simon 1951, p. 202). He writes that "[t]hey are, in a basic sense, universal and hold equally for all men" (p. 202). After providing a list of things that do not make a difference to something being murder (such as the education level, age and health of the victim), Simon observes that "murder is prohibited... on account of universally human features" (p. 203). Further, he states that "the proposition that it is not lawful to kill an innocent person expresses a necessity everlastingly belonging to the constitution of a universal essence" (p. 203). It is amusing to note how, after asserting the absoluteness of the prohibition on murder and claiming that it "admits of no exception or qualification" (p. 202), Simon then goes on to distinguish between murder, on the one hand, and each of the execution of the guilty, the causing of an innocent person to die, and the exposing of an innocent person to death, on the other. The most striking thing, though, is that at no point does Simon elaborate on what it is about this universal feature (he is presumably still referring to 'man') that is important, or why it is that the 'essence' warrants protection. Again, and though there must be something important about this property or essence, it seems that the prohibition on murder is justified primarily on the basis that all people share in it.

The prohibition on murder is absolute, and involves a straightforwardly negative conception of a right to life (we will explore the difference between positive and negative rights more fully, below). After dealing with this, Simon discusses more positive interpretations of such a right, although the way he deals with these is less absolute. Simon (pp. 205-206) regards it as a society's duty to move towards a condition whereby everyone's life is afforded equal protection, and where there are no inequalities in life-span between different sections of a society, although with the consequentialist qualification that some inequality may need to be accepted (at least in the short term) if the cost of tackling it is too great (he likens it to the military example of having to accept some deaths in order to achieve the greater good of winning a war). Even here we see how the universal nature of the property 'man' leads Simon to see benefits to apply to the class of man over individuals, and to individuals only as members of this class.
He also deals with rights to education, although, in light of the qualification mentioned in the previous paragraph, he sees that people have "a right to demand that society should promote the availability of education" (p. 206), rather than that all citizens have a strict or absolute right to equal education (while a right to education is often seen as an example of a state-granted right, Simon seems to regard it, like the other rights he discusses, as natural but derivative). The odd way that he expresses his rights (for example, "to demand that society should promote", and his clumsy distinction between 'murder' and 'risking the life of') seems to result from their absolute nature: If people did have a right to equal education, then this would literally mean that a government should immediately implement a policy to bring this about, even if this meant that it could no longer provide health care, or if it resulted in a 'lowest common denominator' standard. His qualified right regarding education can nonetheless be regarded as absolute as far as it goes: There is no situation in which a person cannot demand this, and, presumably, no situation where a government would be excused for not aiming at the greater availability of quality education. Because they share the essence man, everybody has the right to demand this.

We have seen how Simon's ethical and political views depend upon immanent universals, and, in particular, on a shared human essence or nature. He writes: "It is human nature which demands that human life be protected by the efforts of society; this demand holds equally for all the bearers of human nature" (p. 205). We shall now take a look at a debate involving the Thomist account of rights.

C1.4.2 A Challenge to the Thomists

We have seen how Simon's views are related to the metaphysical position of Aquinas (which in turn relied heavily on Aristotle). This is not the only occasion in which Aquinas features in a debate on rights. We shall now consider the arguments of George Schedler (a Catholic theorist) who takes issue with the Thomist approach, and also those of Raymond Dennehy, who responds on behalf of the Thomists.

The first thing to note about Schedler is the way he sets up the problem. After discussing problems with various arguments that claim to provide the foundation for human rights (problems which are experienced by Thomists as well as other non-Catholic
theorists), he lists a set of criteria that are important for those he terms ‘secular theorists’. He writes (1980, p. 159), “[t]hey hope to find some feature of human beings that solves the three problems: the ‘uniqueness problem’ (a unique human property), the ‘equality problem’ (a property equally possessed be all humans), and the ‘relevance problem’ (a property morally relevant to the possession of human rights).” Schedler then provides a theory that, he purports, satisfies these criteria. This is, as he calls it, the Catholic view, and this view posits immortal souls. Such souls fit the criteria because they separate humans from all other beings (for humans are the only beings that possess souls), the immortality of the soul provides the equally (“since one person cannot logically be more or less immortal than anyone else”; p. 160), and “[w]e also solve the relevance problem, since a human being’s right to life becomes a more serious matter than that of any mortal creature” (p. 160).

What is especially relevant to our study, however, is the treatment that Schedler then gives of the Thomist position (or to his interpretation thereof). It is important to stress that, according to Schedler, the aspect of humans that is to provide for their rights must not just be possessed by all people but be possessed to an equal degree by all people. Thomists base human rights, says Schedler, on the fact that all people possess a rational soul. Schedler’s problem with this is that it “requires that they defend the implausible thesis that all humans have the same rational capacities” (1980, p. 166).

As indicated, Dennehy falls into the Aristotelian or Thomist school (he has written of Simon that he “brilliantly extended” the arguments of Aquinas; Dennehy 1981, p. 491). In a reply to Schedler’s paper, Dennehy takes issue with a number of his claims. In response to the claim that not all humans are rational, Dennehy (1981, p. 489) points out that most babies eventually will be, while people with certain disabilities will not, but the latter is still a human being because, like the normally developing infant and like the already developed normal man or woman, he possesses the essence man. It is not the exercise of rationality and choice, what may be called “secondary act,” which makes a being human but rather the exercise of the act of existence (esse) peculiar to the essence man, what may be called “primary act”. The exercise of rationality and choice is admittedly the fulfilment of these powers; nevertheless, their exercise does not make a being human but rather fulfills his essence.
Dennehy, further, distinguishes between rationality which is essential to human nature, and "degree of intelligence, [and] of mental health, etc., [which] are accidental conditions". In this respect, Dennehy's Thomism is actually similar to Schedler's Catholicism, in that both appear to regard universal and complete possession of a certain property as being the grounder of basic human rights (both think that additional rights can come about through the accidental, or non-shared, conditions).

Dennehy (1981, p. 488) charges that Schedler "erroneously [attributes] to Thomism the extreme realism of the Platonic solution to the problem of universals". Schedler (1980, p. 163) had argued:

If, as Thomists claim, human beings qua species are properly said to have the capacities for knowledge and rational choice, and, if, in addition, these are the capacities that serve as the ontological basis for human rights, then it follows that only the species can have human rights.

Dennehy (1981, p. 491) responds by saying that he is not aware of any Thomist who believes that it is the human species, as opposed to particular humans, who have such properties. It seems that straw men are being utilised on both sides here. While Schedler did not (as alleged by Dennehy) attribute Platonism to Thomists (to do so would be absurd given the Aristotelian nature of Thomism), he does seem to have been in error in claiming that Thomists see rights as pertaining to the whole species. Nonetheless, I think that a weaker version of his criticism would be appropriate. As we saw above, Thomists do seem to focus not so much on the possession of a certain property as the grounder for rights, but on the shared possession of this property (it is not the species that has the rights, but the rights do seem to be had by individuals in virtue their being members of the species). Let us look more closely then at what Dennehy, and perhaps other Thomists, are saying.

Dennehy argues that his view of humans stems from Aristotle, i.e. he thinks that man is a rational animal (which he contrasts with the Cartesian view that rationality is the essence of man). This results in rationality being "a power of the rational soul", or something that man's essence can do, rather than being the essence itself (Dennehy 1981, p. 493). Again following on from the tradition in which he works, he states that "essence
in itself is neither universal nor particular, neither one nor many” (p. 491). When it comes to universals, Dennehy’s view is somewhat unclear (and the ultimate effectiveness of Schedler’s challenge cannot be assessed without determining Dennehy’s metaphysic). He writes of universals existing in the ‘intellect’, and as if all properties in the world are particulars (he clearly accepts the reality of properties). He also observes that “the species man, to which Schedler refers, is an abstraction which exists nowhere but in the intellect of the knower” (p. 492). Nonetheless, his argument reads neither as an example of nominalism, nor as one of trope theory. Instead, and as I did with Simon, I conclude that Dennehy assumes immanent universals, and that his brief explanation is aimed at foiling Platonism, rather than universals per se (this seems to be supported when he writes that “the individuating properties of matter particularise [the essence man]” (p. 492) – something must be universal in order to be particularised).

So it seems that, despite their disputes, both Dennehy and Schedler rely on immanent universals (a reading of Schedler makes clear that he adopts universal properties, and there is no suggestion that these can have existence separate from their instantiations). Unlike many theorists, neither develops an account that tells us exactly what rights it is that all people have (to life? to education?).

C1.4.3 Tibor Machan

Machan, a human rights theorist, is another who appears to fall within the Thomist tradition. He (1989, p. 63) describes the tendency to link natural rights into the notion of human nature as the “distinguishing feature of natural-rights theories in the literature” (he points out that the “bulk of contemporary rights theories are not advancing a case for natural rights”). Machan (1994, p. 488) states that “natural rights theory does not presuppose a Platonistic type of essentialism”, but such rights are nonetheless dependent on a shared human nature. This human nature involves individuality as an important ingredient (he writes almost of a shared individuality), and he thus rejects what he sees as the Marxist approach of regarding the human species as the morally relevant entity (Machan 1989, p. xxi). It is nonetheless the case that “human rights are based on universal human attributes” (1989, p. 490).
Machan seems to be under some confusion as to whether rights are relations or single-placed properties. He actually describes them as being relational, and as being in some sense dependent on human communities (they are nonetheless natural and objective). He claims, for example, that they “pertain to the moral responsibilities that arise among humans” (1989, p. 2; he points out that many phenomena are natural, but nonetheless only come about in certain conditions). This would be fair enough in itself, but his identifying rights with relations and his dependence on communities is problematic given that he elsewhere writes (in an unqualified fashion) of human rights being grounded in human nature (he also writes as if it is individual people who have rights, but relations are not really things that are had by individuals). Relations cannot be truly said to be grounded in particular natures except in the loosest of senses (they may be grounded in the interaction of several natures). Though it needs to be noted that Machan did make these claims about relations, I will be focussing on his other claims (such as the one quoted in the next paragraph) that suggests that they depend on individuals considered singly. I will have more to say about rights being viewed as relations later.

Machan (1989, p. 64) argues that

The natural-rights approach to identifying individual human rights aims to provide these rights with a solid foundation in human nature. By grounding these rights in something they take to be as stable as human nature these theorists advance an understanding of rights based on metaphysical naturalism. Within such a conception, any system of human rights would have to be self-consistent, since the basic laws of existence or nature — vis., the law of identity, the law of non-contradiction — extend into the realm of morality and politics which are aspects of human life and thus very much a part of nature. So by the natural-rights approach the ascription of basic rights to human beings must never involve fundamental conflict.

It seems to me that this argument regarding identity and non-contradiction only holds for a ‘man qua man’ universals approach to rights. There is nothing ordinarily contradictory about two things being opposed to one another (asteroids crash, for example), but there is a problem if a theory asserts the truth of both $a$ and not-$a$. It is arguable that this is what would happen if the property humanity simultaneously demanded two courses of action, only one of which could be satisfied. Though a universal may not be able to oppose itself
(we saw, for example, that Moore argued that the ‘Universal Good’ could not have competing demands, only particular goods could), there would be nothing contradictory about two tropes of a certain type involving competing demands.

Interestingly, this need for lack of conflict suggests that Machan believes in negative rather than positive rights (we will look at these in the final subsection, below). I will provide an example to justify this interpretation. Consider a right to life. This right can have both positive and negative interpretations. On a positive interpretation, other individuals would be obligated to assist the bearer of the right in preserving his life (by feeding him or giving him medical care, for example). On a negative interpretation, however, other individuals are simply obligated not to interfere with him (they cannot kill him, but they also do not have to help him when he is in need). Positive rights to life can conflict – there may be two people in need, but all that may be available is the means to assist either one of them. Two negative rights to life cannot conflict, however, because the ‘do nothing’ option is always available.

It is doubtful that all natural rights theorists would agree with Machan’s view that natural rights cannot conflict with one another, or with the view, which Machan presumably also holds, that rights cannot conflict with other moral concerns (rights could still be natural and basic if other moral concerns were equally but not more fundamental). It is certainly clear that, in this respect, Machan differs from the Thomists we considered earlier (the rights they advocated tended to have a clearly positive nature). While this point will be made more fully below, this demonstrates my contention that universals theories are quite flexible in respect to the types of ethical views they can accommodate. We will again see that this flexibility does not survive the transition to tropes.

**C1.5 The Fallacy of Equivocation**

I mentioned at the start of this section that one of the ways that rights theories can depend on universals is by way of concepts that are related to universals. The concepts I have in mind are those of universality and equality. I now wish to suggest that the way these concepts are used often commits the fallacy of equivocation. I also suggest that this
fallacy is a near ubiquitous feature of rights discourse (I think this is true both of the scholarly and non-scholarly aspects of this debate). We will now explore these concepts.

C1.5.1 Universal

Though it might seem straightforward, any use of the term ‘universal’ is open to a range of interpretations. It is certainly noteworthy that many who discuss the term do nothing to aid clarity. One philosopher who does examine the various potential meanings of ‘universal’ when it comes to natural rights is William J. Wainwright. He writes (1967, p. 80),

[W]e have four senses in which any moral obligation is universal to its subject. The four senses are:

i. that the obligation falls on man as man,
ii. that it fall on most men at some time or other,
iii. that it fall on most men at some time or other, in any actual society, and
iv. that it fall on most men at some time or other in any possible society

... [there are also] four sense in which an obligation may be universal with respect to its object:

i. the obligation is to man as man,
ii. it is such that most men would at some time or other be the object of this obligation,
iii. it is such that in any actual society most men will at some time be its object, and
iv. it is such that in any possible society most men will at some time be its object.

It is easy to see that some of these rely on the metaphysics of human nature (‘man as man’), whereas others merely suggest that rights and obligations are common. These are two very different ideas.

As we have seen, in metaphysics the term ‘universal’ identifies something that is ‘wholly present in more than one place at the one time. But it also has a more general meaning, in which case it is synonymous with ‘ubiquitous’. While one is a metaphysical claim, the other is a claim about regularity; these are very different notions even if a
particular theory sees the regularity to have a metaphysical foundation. I now turn once more to Simon (1951, pp. 197-207), who, as we will see, shifts back and forward between these two senses of universal as he develops his argument.

This shift is most noticeable when he moves from discussing 'universals' to 'universal features'. This is done deftly and it would be easy to assume that he is using two similar terms to refer to the same thing, but I suggest that this is not the case. On an immanent universals account, all genuine properties are universals, and this will be true of a particular property even if it has only one instance (universals need only be capable of being present in multiple places at the same time). To speak of a universal feature (by 'feature' he seems to mean 'property'), however, suggests ubiquity (if a belief in universals is being taken as a given, then tagging properties with the label 'universal' would be redundant unless it is meant to qualify the concept). To claim this about a property suggests, if not that it is present everywhere, at least that it is present among all members of whatever class happens to be the topic of conversation (in this case, it would be the class of all humans). The reason why this is a problem is that it simply does not follow from that fact that rights are had in virtue of the possession of some universal that rights are had by all people (one must establish the ubiquity of this property).

Now this might not prove to be too great a problem for Simon's argument (his focus on 'man' as the relevant property should get around it), but I mention it because it seems to me that his basic line of thought (that universal properties result in a unity among people, which in turn means that it is the unity, rather than the individuals, that is of fundamental importance) is one that is shared by many people when it comes to rights. This basic approach gains undeserved weight from the confusion between the two senses of 'universal'.

**C1.5.2 Equality**

Natural rights are also closely connected to the notion of equality. According to Bryan Turner (1986, pp. 34-36), ontological equality was central to the Christian and medieval natural law theories from which the notion of natural rights derived (he suggests that the natural law perspective is rarely advanced nowadays). The natural law version of this
view "asserted an essential equality of human beings *qua* human beings" (Turner 1986, p. 34). He writes (p. 36) that

[t]o believe in an equality of human essence requires a strong moral argument which would override our sense of cultural relativity. The notion of an absolute essence of human equality or even a notion of an equality of human potential is not common in contemporary arguments in favour of social equality.

Though I would certainly challenge Turner by suggesting that 'our sense of cultural relativity' may not be as prominent as he thinks, it is important to note that he sees the presence or lack of this ontological equality to have ethical implications (moral equality would seem to stem from ontological equality).

Unfortunately, while equality is regarded almost universally as a good thing, and as an important or necessary aspect of any moral theory, theorists tend to be vague about exactly what they mean by it (indeed, moral disputes can be a direct result of this vagueness). Scheffler (1976, p. 59) writes,

The idea of equality exerts considerable influence on our moral imaginations, yet it remains philosophically elusive. Although men and women have thought equality worth dying for, philosophers have been largely unable to give any systematic account of its importance as a moral ideal, or of its function in moral and political theory.

The *application* of equality when it comes to rights is especially prone to confusion. I will demonstrate this by listing a pair of claims which I contend are not equivalent:

1. All people have an equal right to freedom
2. All people have a right to equal freedom

If one were to move between these two claims, there would be no equivocation when it comes to the word 'equal' (it means the same thing in both claims 1 and 2). Rather, the equivocation occurs when an argument that begins by discussing the equal rights of
individuals shifts to making a claim about the consequences of these rights. It might be thought that these are the same thing. After all, if two individuals have an equal right to education ('equal' meaning what it ordinarily does), then it follows that the type and quantity of education that both are entitled to will, broadly speaking, be the same. If person A's right is to a high school education, then so will be person B's right, likewise for tertiary education (or any other level or type of education one may care to specify).

The problem comes when we consider that, in a world in which an individual has a right only to a primary and secondary education, it may nonetheless be possible for certain individuals to receive a tertiary education – an individual’s receiving of this higher level of education may be thought of as a privilege, or simply as a non-value loaded occurrence. This itself is unproblematic. But if the right is to an equal education (where equal is now a clause in the right, and no longer a relation of exact similarity, say, that holds between two rights) then one person’s receiving a higher education may be thought to influence the type of education that other people have a right to: If the highest level of education that anyone receives is secondary, then this is all I have a claim to; once someone has received a tertiary education, however, then my right now gives me a claim to this. It should be clear, then, that claims 1 and 2 can result in very different applications.

I contend that this equivocation causes moral confusion. While it is possible (as we have seen and will see) to develop a theory that provides rights to equal treatment (being given the same amount of health care or education as others, for instance), this right to equal treatment does not follow from the fact that the rights of individuals are equal, or from the fact that individuals are equal in their possession of rights. To conclude that it does is fallacious.

C2 Rights as Properties

As already indicated, no theorist that I am aware of has explicitly claimed that rights are universal properties. Nonetheless, many theories rely (or seem to rely) on universals generally. It seems fair to conclude that if a theorist is committed both to a belief in
universals and to a belief that there are genuine natural rights, then that theorist must also be committed to the view that rights are universals.

This thesis will not be making this assumption about rights, but it will be assuming that they are properties of some sort (be these universals or tropes, single-placed or relations). This assumption is reasonable for several reasons. Firstly, because we want our rights to have more than a nominal existence – we saw in A3.3 that views like normative realism were unsatisfactory when it comes to ethics generally, and I contend that they are likewise unsatisfactory when it comes to rights. Secondly, as they are described in the literature, rights are clearly abstract entities, and properties are about the only way that something abstract (as opposed to concrete) can have more than a nominal existence. Finally, rights are said to hold of, or between, concrete particulars (such as people), which is a neat match with the metaphysical talk of objects having properties or participating in relations.

A final point: Though some of the theories we looked at above dealt with rights that were natural though somewhat derivative, the rights with which we are now concerned will be fundamental ones. As a (brief) justification for this, I note that protesters are seldom heard to demand the recognition of derivative human rights.

### C2.1 Rights: Single-Placed Properties or Relations?

Having decided that rights must be properties, we must now consider whether they are best viewed as single-placed properties or as relations. The single-placed rights option would be a pretty straightforward one, but there are three broad ways that rights as relations could be developed (the first two of which involve dyadic relations, the third triadic). Firstly, we could have relations that involve an individual with a right and another individual with an obligation. Secondly, we could have a relation between an individual (a right-holder) and some object (such as a piece of property) or good (such as education or health care) in the world. Thirdly, we could have a relation that encompasses each of the right-holder, the obligated individual and an object or good in the world. It is

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23 Though throughout history there were many theorists who were realists about single-placed properties but not about relations, it is now uncommon for a theorist to subscribe to one but not the other (Audi 1999, p. 789).
also possible that in place of a single obligated individual we could substitute a class of individuals (such as the class of all humans).

At a broad level, viewing rights as relations between people certainly has attractions. After all, it is a corollary of someone having a right that someone else has an obligation (the issue is whether the obligation is accounted for by the same property). A right and an obligation could plausibly be the two sides of a single relation. It will be remembered that Machan (1989, p. 2) argued that rights “pertain to the moral responsibilities that arise among humans”, and are therefore relational (we also saw that much of his argument seemed to contradict this). An example of a relational type of right may be the claim rights that we examined in C1.1. If a claim right was operational, and if I were to lend money to someone, then two things would be true. Firstly, I would have a right to get that money back, and secondly, the person I lent the money to would have a duty or an obligation to repay it.

The reason why we cannot base a general account of rights on examples like this one is because while this right is clearly relational, it is equally clear that it is of a second-order variety. I would certainly have a right to be repaid, but it would not be a fundamental right (its obtaining would depend on contingent factors at least as much as it would on my moral nature). I now intend to argue that though some natural rights (such as the one just examined) may best be explained as relations, the most fundamental natural rights are best viewed as ordinary single-placed properties. The best evidence in favour of this position is a negative argument showing the counterintuitive implications of rights being relations. We will consider three such implications.

Firstly, if rights are relations between people, then an individual’s having of rights becomes dependent on the existence of other people, given that for a relation to obtain, each of its terms must exist (Campbell 1990, p. 98). This may be palatable in the case of the claim rights looked at above, but it must be unsatisfactory in the case of fundamental rights. Consider the implications. If I was the only moral agent in existence, and if rights were relations between such agents, then it would be metaphysically impossible for me to have rights. Even such fundamental rights as rights to life or liberty would be ruled out because there would be no one with whom I could share in the necessary relation. If another person suddenly popped into existence then I would suddenly get my rights, but
if that person were to die, then I would just as quickly lose them. To regard such rights as fundamental (and as being due to our moral natures) would be a sham.

It should be noted that there are actually two ways that the above possibility could be realised. Either the mere existence of another moral agent somewhere would be enough for the right-obligation relation to hold (even if it we existed too far apart for there to be any practical implications), or else there would need to be some physical or other connection between me and that moral agent. Even on this second approach, the implications are problematic. If I needed to be within a certain physical distance of the other moral agent, then my fundamental rights would come and go every time we fell in and out of range (in much the same way that, on a journey, radio reception may be sporadic). If I needed to have a more substantial relationship with the person, such as form a community with him or her, then my rights may disappear anytime we had a falling-out and went separate ways. When we speak of things such as human rights, though, we are discussing things that fundamentally result from our natures. Rights as relations become arbitrary in the sense that they depend on things other than the existence of an individual’s nature. My nature and behaviour may remain unaltered, and yet my status as a right-holder will change. These are not the fundamental rights that we have been looking for.

The second implication involves the way in which relational rights stray from ordinary rights discourse (this point was also made about Machan’s argument in C1.4.3, above). Rights are normally said to be things that people have. I have a right to life. Fred has a right to enjoy his property. Billy has a right to protest. Relations, however, are not things that can be had by anybody. People may participate in relations, but they do no have them. If the relation being five feet from holds between Irma and myself, then we both exist, and the relation exists, but the relation is not a property of either of us (it is not even fundamentally ‘about’ one of us). This suggests that if we were to accept rights as relations, then we would need to change the way we speak of rights (people would participate in rights; the rights would not be something central to their individual natures). It might be thought that this is a difficulty that could be resolved by relational

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24 The example of the lone person is certainly farfetched, but the problems this unlikely scenario raises are still significant.
properties. Having a right might be described as being the single-placed property of participating in a right-obligation relation on the side of the right-holder (having an obligation would likewise be the single-placed property of being on the other side of the relation). The problem is that this would make rights even more derivative than if they were relations. Though relations tend to be less fundamental than single-placed properties (if there were no single-placed properties or objects with single-placed properties then relations would have nothing to relate), relational properties are less fundamental than relations (relational properties depend on the relations that depend on the other single-placed properties). Whichever option we take, relations or relational properties, my rights would still depend on the existence of other moral agents.

A third implication of regarding fundamental rights as relations between people involves the fact that, unlike in the case of claim rights, where the obligation pertains to a particular person, everyone would be under an obligation to ensure that a person’s fundamental rights are recognised (this is why they are fundamental). The issue that arises is whether the obligation would hold primarily of the group or of each individual within the group, and it is not even straightforwardly obvious which one of these would be desired. Sometimes rights are thought to obligate communities (such as in the provision of health care), at other times they are thought to involve individuals (such as when a drowning child needs to be saved). So, we really have two options. Firstly, we might posit a natural class as one of the terms of the relation, whereby other people are obligated not to violate another’s rights in virtue of their membership of this natural class. The danger of this approach is that it could lead to what is known as a diffusion of responsibility, where only a small degree of obligation ends up holding of any individual.

The next possibility is to think that there exists a separate triadic relation for each person who is obligated not to interfere with Fred. So, relation-right one would have as its terms Fred, not to be interfered with, and person A. Relation-right two would have as its terms Fred, not to be interfered with, and person B. And on it would go. This may seem reasonable, given that an individual may simultaneously be related to many objects in the world (I can simultaneously be one kilometre from countless things, for example). The problem for rights is that if this were true then Fred would no longer have a general right not to be interfered with, he would simply have rights not to be interfered with by
Alice, Sam, and Jason, etcetera. This would allocate to Fred a very non-parsimonious (and fluctuating) quantity of rights. If one were to think that this approach is basically right (to the degree that everyone is individually obligated not to interfere with Fred), but that it must be simplified on the Fred side of the ledger, then one must think that there is one thing about Fred in virtue of which all these relations hold. If this is so, then we have probably stumbled upon a non-relational right.

What of the possibility that rights might involve relations between a right-holder and an object (not another right-holder) or some good in the world? We have seen that this could be an alternative to viewing rights as relations between people, or that both could be involved in a triadic relation. There are many examples. A property right may relate a person with a house or a pencil. A right to education might relate a person with educational institutions and/or practices. A right to health care might relate an individual to health care providers, medicines and hospitals. Even this option is problematic, because it is hard to see how an individual’s rights can be fundamental if they depend on things external to the individual. It would surely be absurd to suggest that a fundamental human right could be dependent on a pencil, for instance.

Consider, also, that this would mean that people could not have rights to things that are not extant. Just as rights that are relations between people require other people to obtain, so too would rights that are relations between individual people, on the one hand, and objects or goods, on the other, require the existence of those objects or goods in order to exist themselves (see Campbell 1990, p. 98). Consider the situation in which Fred has four rights – a right to life, a right to liberty, a right to health care and a right to a bear arms, each of which is recognised but for the final one. If we were concerned that not all of Fred’s rights were being met then we now have a new way to fix this: Instead of giving him a gun, or otherwise allowing him to have one, we could destroy all the guns in the world. Once the guns are destroyed, then Fred could not participate in a relation with them, and he would therefore no longer have a right to have one.

We have seen why it might seem intuitively sensible to view rights as relations, but we have also seen that there are some very counter-intuitive consequences of doing so. I think that there is a solution to this problem. I suggest that some of the problems raised in
the preceding paragraphs can be cleared up by noting that there are actually two senses in which a person can have a right, one of which is more fundamental than the other. Let us consider the example of ownership. Suppose that I have a right to own property. To attribute this right to me means not that I actually own anything, merely that I possess the moral power to do so (if this was not the case, then a person with no property could not have a right to own some). Because this right does not essentially involve anything in the world other than myself (it would have implications for other people and certain objects if I were to exercise it), it make sense to think of it as a single-placed property (it could not be a relation because there are no other terms). But in addition to having the mere power to own property, I might also actually own something. Perhaps I own a pencil. In this case, it makes sense to think that I have a right to the pencil, and that this right involves a relation holding between myself and the pencil. The relation may come about, in part, due to the existence of the single-placed property, or may result from the just application of my fundamental right (by just, I mean to exclude certain ways of coming to control an object, such as through theft or intimidation). So it seems that we can make a distinction between a right to own property, and a right to a particular piece of property (the former of these may be a right ubiquitous among humans, while the second need not be ubiquitous).

There are many other examples of this. Consider the example of a right to medical care. On certain theories, everyone would have such a right, but there is clearly a difference between the rights of a healthy person and those of a sick one (the latter being someone who needs health care now). Imagine that a particular government had closed down a nation’s health care system. Though all the citizens would have a right to health care, it is only really those who are sick who are having their rights denied. I suggest that this could be explained by all citizens having a single-placed right to health care, and that, when sick, a relation would exist that would demand that that individual be helped. Another example would be a right to the product of one’s labour. Every individual could have such a (single-placed) right, even those who did not engage in any labour, or who chose not to take possession of the product of it. Obviously, if they chose to exercise this

25 There would likely be caveats: I may have no claim to property that is already owned, for instances, even if none is left for me
right (the having of the right is different to the exercising of it), others would then be under an obligation (presumably by way of relation) not to deprive them of that which they exercised the right to.

Even something as fundamental as a right to life can be explained in this way. The reason why other people are under an obligation not to kill me is because I already possess a right to life. It is not the case that they have an obligation and I (on the other side of the relation) have a right, the obligation holds precisely because I have this right to begin with. Consider an analogy: I would not hate someone because they participated in a relation of hate with me, I would hate him or her because of some other qualities that that person possessed. This is also true of most obligations. Though I am, in a sense, obligated to repay a debt because of the obligation relation, that relation holds precisely because someone else had lent me money (though, in this example, the act of money lending probably involves another relation, it demonstrates that obligations are secondary to that which brings them about).

I hope that the above demonstrates that while there may be a place for rights that are relations, at a fundamental level it seems that an account that regards them as single-placed properties is superior. We shall now move to consider the nature of these properties.

**C2.2 Rights as Universals**

We saw above that, to the extent that rights theorists acknowledge that they are dealing with universals, they tend to be operating in the Aristotelian / Thomist tradition. This position (once Aristotle and Aquinas have been recognised as immanent realists, rather than as nominalists) is quite similar to what might be called the ‘typical’ modern day view of universals, which holds both that universals exist only in particulars, and that particularity relies on a substance of some kind. The major difference between these two perspectives involves the nature of substances, which the Aristotelian / Thomist position sees as being rather less bare than do its modern day counterparts. Armstrong (1989, pp. 94-96), for example, argues that it is possible to consider a particular as distinct from its properties, even though the particular cannot exist without them (he labels a particular
considered in this way as a 'thin particular'). Essentially, the typical view holds that nothing can be true of a particular in the absence of single-placed properties or relations, so that when it comes to particulars *qua* substance or *qua* bare/thin particular, there is nothing to qualitatively distinguish them from one another (again, it needs to be stressed that they cannot exist separate from their properties, which produce qualitative differences). As we have seen, though, the Aristotelian/Thomist view holds that substances are fundamentally substances of a certain type (*this so-and-so*: *this* man, *this* tree...). So, even if one could remove all properties from an individual, and yet leave the substance in place, it would be possible to distinguish between substances (some would be men substances, others rock substances, for example). While this obviously represents a major difference between the two approaches, it does not greatly affect our treatment of rights (the differences in their accounts of human nature can be more significant). The account which I will now sketch will be based primarily on the modern standard view.

If rights are immanent universals, this will mean that the one right can be wholly present in more than one location at the same time, so that though I am numerically distinct from Fred, there will be no numerical distinction between our rights to life. While the Thomists have drawn certain conclusions from the fact that properties are shared, we need not do so. My explanation for the relationship between rights and other properties will be based on the supervenience account developed by Lemos, which we looked at in C1.3. As Lemos (1982, p. 137) indicated, rights could be explained as supervening on certain properties involved in our human nature (for example, an individual’s “possession of the natural right *x*, [could be explained as supervening] upon his possession of the natural properties *f, g, h*”). The difference between my approach and Lemos’ is that mine will explicitly identify rights as also being properties (presumably, this would be acceptable to Lemos). The significance of this is that though, as we have seen, from the fact that something is a universal it does not follow that it is ubiquitous (while there is a dispute about whether a universal can have no instances, there is widespread agreement that it can have as few as one), the desired ubiquity of rights among humans would be provided by this account. If it is the case that rights supervene on human nature, then any time there is a human there will be rights (other properties, such as rationality or consciousness, might be substituted for human nature to suit particular theories).
It is pretty easy, then, to come up with a non-Thomist account of ubiquitous rights on a theory of universals. Again, it should be stressed that while this approach makes use of universal properties (which, by definition, are properties that are shared by each of their instances), it does not draw any significant conclusions from the fact that these properties are shared.

**C2.3 Rights as Tropes**

Consider now the possibility that rights might be tropes, or abstract particulars. While the notion of sharing in a universal property need not be important on a universals approach to rights, it cannot be important here. Every such trope will be unique to the human it occurs in. In this section it will again be assumed that a bundle approach to objects is the correct perspective, although the general lessons should be just as applicable to a substance-trope account.

It is important to be clear that in rejecting universals we need not also reject universal (i.e. ubiquitous) rights. Supervenience can provide for just as strong regularity on a trope theory as it can on a universals one. Our account will again rely on Lemos’. Rights, which are tropes, would supervene on certain other tropes (such as human nature). This would mean that whenever these base tropes come into existence, then so too will the rights. If I have certain rights in virtue of my humanity, then Fred Smith will have these in virtue of his. If I have them in virtue of the fact that I am rational, then any rational creature will have the same rights for the same reason. While it is possible to attribute rights to individuals on the basis of a property that is not widespread (this may or may not be sinister; a right to life grounded on the colour of one’s skin would be horrific, while a right to freedom of movement based on maturity, and therefore excluding toddlers, would be welcome), the fact that these properties are tropes makes them no more contingent than if they were universals.

While universals theories of rights need not hold that natural rights stem from the fact that we all have something in common, we have seen that this is the approach that Simon has taken (he is not alone in having done so). This option is not available to trope
theorists, because, on a trope account, there are no common properties to share in. Even though all humans share properties in the sense that our tropes are related by way of similarity or exact resemblance, it is not by virtue of the similarity that we have our rights, but in virtue of the base properties that are possessed by each of us (which happen to be similar). It seems that it would be Simon's view that this lack of commonality or sharing would mean that equal rights cannot be had on a trope view, though I think that it has been clearly demonstrated that he is wrong on this.

I will now examine one of the consequences for theories of rights if these rights are regarded as tropes instead of universals. It is easy to appreciate that terms such as 'the same' and 'equal' have a different (arguably weaker) meaning on a trope account (essentially, we are dealing with similarity rather than numerical identity). When it comes to moral issues, including those involving rights, I think it is helpful to identify two types of equality, and these I call incidental equality and pertinent equality. I use this distinction to separate those moral issues where the equality is required for the right to function (this would seem to be the approach of Simon) from those where, though it is true that the equality holds, it does not add a dimension to the equation (this is the distinction between an equal right to x and a right to equal x). Just to be clear, I think that universals are required in order to get pertinent equality, while incidental equality is all that can be had on trope theory (a universals account can also be developed that deals in incidental equality, as was the case in the sketch I presented above). I contend that it is easy to confuse these two kinds of equality, with the result that pertinent conclusions can be drawn from equalities that are only incidental. I suspect that when many people reason ethically, they find incidental equality in the premises of their arguments (e.g. they rightly discover much that is similar or the same about all people), and get pertinent equality in the conclusions (i.e. they conclude that the common property is important qua common, more so that it is qua whatever sort of property it is).

It needs to be stressed, though, that in saying that this equality is incidental, I am not saying that it is coincidental, or that it comes about as a complete fluke. The equality's dependence on supervenience and similarity relations means that it will occur with law-like regularity. The important point is that the equality does not bring about any further morally relevant consequences for each particular occurrence of a right scenario.
We have seen that there need be no differences in the types of rights we have depending on whether we subscribe to a theory of universals or tropes. We have also seen that a theory of tropes can provide us with rights that are ubiquitous and equally held among humans. I will now argue that though a theory of universals can account for the same rights as a theory of tropes, there are types of rights that can be justified by universals that cannot be justified by tropes.

**C3 Positive Rights vs. Negative Rights**

When discussing rights and theories of rights, it is common to make a distinction between rights that are ‘positive’ and those that are ‘negative’. This current subsection aims at exploring whether the viability of these two types of rights alters depending on whether we are assuming a trope or a universals metaphysic. The conclusion will be that while negative rights theories can be supported by either universals or tropes, positive rights require universals.

What are the differences between these two types of rights? The standard distinction is that positive rights are claims to something, while negative rights grant protection from something. Positive rights, for instance, might demand that other people, or the state, provide some good to the right holder (perhaps medical care when ill, or food when impoverished). Negative rights, in contrast, restrict what others may do to a right holder or his property (they may command that they not be assaulted or robbed), but they do not aim at providing him with some good (unless not being interfered with is itself considered a good). Any given natural rights theory may include one or both of negative and positive rights.

At an intuitive level, it is pretty easy to locate any proposed right in one category or other. Given a list of potential rights to, say, life, liberty, the product of one’s labour,

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26 The term ‘positive rights’ is sometimes used, in a different sense, to refer to rights granted by man or societies, as opposed to those that are ‘natural’. It is possible for these two competing conceptions to correspond in certain theories – natural rights may provide all, and only, the negative rights one needs, while all other rights are both granted by the state and require that others or the state do something for the right-holder (such as engage in the redistribution of resources). But there need not be this match, and they remain very different ideas. We are not concerned with non-natural rights here.
education, and health care, there would not be much dispute that the first three are negative, and the final two positive. But the idea of a fundamental distinction between positive and negative rights is not without challenge. After all, rights that fall into one category can, with varying degrees of success, be phrased in terms of the other – for example, the negative refraining from interfering, could be positively stated as performing the action of avoiding. And the positive helping, could be negatively rephrased as refraining from not helping. There is not the space here to argue at length on this, but it is my contention that there is a difference between the two, and that the foregoing points merely try to make a metaphysical / ethical point out of a confusion of language.

Let us explore negative rights and positive rights in turn.

C3.1 Negative Rights

As should be clear, negative rights are deontological in nature: They are concerned neither with producing the best outcome all round, nor with producing a particular outcome for a particular person. They simply have as their object the limitation of what can be done to an individual. Our current discussion of negative rights will be brief (more will be said in section D) and aims simply to show that these can find an adequate grounding in both trope and universals theories. Because both metaphysical perspectives can provide for rights in the same fashion, they will be dealt with at the same time.

On the Lemos-style account we have been following, negative rights will supervene on some of the properties we possess. My right not to be interfered with, for example, may supervene on my humanity, with the result that no one is entitled to interfere with me (neither are they required to come to my assistance if I am in need). Any other entity that instantiates human nature will also instantiate a right not to be interfered with. Because these rights supervene on certain properties of individuals (they require nothing other than one individual in order to exist), and because they apply only to these individuals (their scope of reference does not extend beyond the individual), none of the problems involving supervenience (looked at in B2.1.1) arise.
I hope that it is clear that though universals theorists tend to see universals as supporting positive rights, it is also possible to see them as supporting negative rights only. As we saw in C1.4.3, Machan adopts a Thomist-like approach to properties and rights and yet seems to think that such an approach is only compatible with negative rights. He argues that it is necessary that natural rights not conflict with each other, and that they not violate the law of non-contradiction. As indicated above, while the positive rights of different individuals can be in conflict, it is hard to see how this could be true of their negative rights. So, not only does Machan base his negative rights on universals, he actually seems to think (contrary to many other theorists) that universals rule out positive rights.

As indicated, the coverage here has been brief, and has been designed to show merely that negative rights can be accommodated in either trope or universals theories. Section D will develop a more detailed account of trope-rights.

C3.2 Positive Rights

C3.2.1 What Positive Rights are There?

We will shortly be examining how different metaphysical theories (transcendent universals, immanent universals and tropes) may deal with positive rights, but first I would like to take issue with the way that such rights are ordinarily viewed. We have seen that people are often said to have fundamental positive rights to things such as health care and education, but I contend that it is problematic to attribute to individuals natural rights to things that are closely associated with the society in which they live (being so based should be ruled out by the word ‘fundamental’). Consider the implications of this. If an individual has a natural and positive right to education (in virtue of his or her humanity, say), then this means that the individual should possess that right regardless of the capacity of the wider community to meet it. This might seem plausible in the case of individuals living in impoverished countries today (their third world government cannot meet their rights, but the rights still exist), but identifying this right as a fundamental human one would have the absurd consequence that the cave men of ten thousand years ago had rights that were not being met. It strikes me as very
counterintuitive to suggest that cave men could have had rights (natural or otherwise) to education and health care, as education and health care systems have existed for only a fraction of the time that humans have (they are by nature quite contingent).

It may be argued that these particular positive rights are conditional in the sense that though they pertain to everyone in a latent way, they only become active when certain external conditions are met (in this way, a right to education, though present, would not actually call for an individual to be educated unless the means to provide for this education existed). Nonetheless, it is still odd to think that humans have been lumbering around with latent rights for potentially millions of years (human nature would be quite fantastic if it could effectively predict the future). Furthermore, this option would suggest that we may have further latent positive rights, to things we cannot even imagine, but which may be relevant to the lives of humans in a future millennia. Again, to say both that these future people have such rights in an active sense, and that we have them in a latent sense, in virtue of our humanity (or some other important property) would be bizarre.

Alternatively, it could be suggested that though the positive rights we are interested in must be natural and fundamental, their application could nonetheless be culturally relative. Thus we could hold that a cave man’s right to health care means not that he should be looked after in hospital when ill, but that he has a moral claim to demand a visit from the tribal witch doctor. Likewise, his right to education means not that he should be entitled to get a university diploma, but that he should be taught the art of drawing bison on cave walls. On this account all members of a moral community would have rights that are not redundant; they would simply manifest differently according to the time or place in which one finds oneself. I do not think such an approach would be satisfactory, though, because it would seem to demean the rights that people are thought to have now (people who speak of an individual’s right to education mean much more than what this approach would suggest).

I suggest that instead of trying to broadening our conception of education and health care, we instead develop a different conception of positive rights. Instead of suggesting that a somewhat specific right, such as a right to education, might manifest differently in different societies, I think we can speak instead of a much less specific right
that can manifest in different ways – sometimes it might manifest as a claim to education, sometimes it might not. Because we have stipulated that these rights be non-relational, this property would simply have different (relational) consequences in different circumstances. Perhaps positive rights are associated with our humanity (or some other important property), and perhaps they aim for something like the full realisation of one’s human nature. If this was the case, then the needs of an individual could be determined by measuring him or her against the important property.

Two things would be required for an approach like this to work. Firstly, there would need to be a property that represents a \textit{standard} against which individuals can be measured. This would be similar to the Aristotelian approach, where man is identified with rational animality, but where individual humans can fail to be rational. Individual humans, in other words, might fail to fully realise their nature. Secondly, it requires a group of individuals, such as the natural class of all humans, who are by nature required to help other members of that group realise their nature. The same property of humanity could provide both the standard and the group.

We can now abandon positive rights to specific things such as education, and instead talk of a generic positive right to, say, fully realise one’s humanity, or to achieve the most that one is capable of. Other humans would be obligated to help an individual achieve this, although the amount that can be achieved will obviously be dependent on the society and time in which one is situated. Positive rights would focus on conditions being better than they are now, and all societies at any time can do better for their member individuals than they have done (it seems unlikely that any individuals would ever fully realise their humanity).

It is helpful to note a second problem with the ordinary conception of positive rights. This is that they are rights to things (such as concepts) that do not exist in any tangible sense. While fundamental rights (I have argued) are not themselves relations, relations are important when it comes to the obligations that others have towards right holders. For there to be a genuine obligation, there must be a relation between the right holder, the obligated individual, and the thing towards which the right holder has a right. Again, consider health care and education. While these two concepts can manifest in physical things, such as hospitals and schools, fundamentally the positive right is thought
to be to the concept itself and not to the physical manifestation of the concept. But while concepts exist in the content of thought, they have no separate existence as metaphysical entities. This is a problem because, as Campbell (1990, p. 98) notes, a relation cannot exist without the occurrence of each of its terms. While this is a difficulty for the traditional account of positive rights, it is, I contend, not so problematic if we regard it as the right to achieve one’s full nature – human nature, for example, would be a term that actually does exist (note that I will be adopting a much more sceptical approach to human nature in section D).

I conclude, then, that ordinary accounts of positive rights are untenable. The rest of this discussion will rely on an approach similar to the one just developed.

**C3.2.2 Transcendent Universals**

It is not too difficult to see how an account of positive rights similar to the one just mentioned might be justified using transcendent universals (such as Plato’s Forms). It is noteworthy that Plato used a number of expressions to refer to the relationship between particulars and his Forms. He argued that the particulars reflect the Forms, or participate in them, but, most importantly for us, he claimed that they aspired to be like the Forms. This is because the Forms were seen to represent a standard of some sort.

It will be remembered that Plato believed that we inhabited a lesser reality, and that it was the realm of the Forms that was most real. There is an imperfect relationship between the things of these two worlds. Thus it might be thought that there is a Form of human being or person, and that all people in this world imperfectly reflect this Form. It is when measured against this Form that we can see how people might (indeed, should) improve (according to the Platonic account, the Good was thought to both enlighten people as to how they ought to behave, and to actually compel them to behave in the prescribed manner). Positive rights may be those person-specific metaphysical claims that entitle individuals to aim at being a better reflection of the Form\(^\text{27}\) (even though no one can perfectly reflect it, this does not mean that there is no scale). If rationality is part

\(^{27}\) I am using Plato’s arguments as a guide here, I am not suggesting that Plato himself would have been sympathetic to the existence of positive rights, or to the rights I mention.
of the human Form, then people have a claim towards that which can help them achieve rationality – an education, perhaps. If the Form involves vitality or physical perfection, then people may be owed health care, and / or the opportunity to be physically fit. If virtue is involved, then moral guidance is required. Obviously, given the fact that the things of our reality aspire to the Forms but can never reach them, some communities will send their members further along the path than others will.

C3.2.3 Immanent Universals

The previous solution might be neat, but it is of little value (transcendent universals do not get much support nowadays). The possibility we will now consider is essentially the Thomist approach looked at in C1.4. On a standard immanent universals account, whenever an object instantiates a universal property, that property is wholly present in the object. If the property in question were extendedness, two objects would equally (wholly) instantiate this property even if one of the objects was larger than the other. An account of positive rights, based on the properties we all share as people, might be developed from this. It is often said that we share in a common humanity, and it might be thought that certain things are owed to us in virtue of this property, which might involve the capacity for reason, for respect, for love, etc. Importantly, these things are not owed to us qua individual, but qua reasoner or potential reasoner. So, it does seem to follow that, as we are all literally equal (on a theory of universals) in respect to humanity, and as that to which we are said to have rights is reflective of the nature of this humanity, we are owed (and have a right to) that which fulfils our basic human capacity.

C3.2.4 Tropes

Now to tropes. We have seen that natural positive rights are plausible only if there is both a standard against which right-holders can be measured, and a natural group that can then be obligated to help ensure that the right-holder’s rights are recognised. It was noted that
universal properties help achieve both these things. It now needs to be determined whether a similar approach is plausible on trope theory.

The first thing to note is that though the classes that are formed on trope theory are not as fundamental as those that are produced by universals, they are still natural. In the universals case, being in a group actually involves partial identity – the class of all humans would be produced because the humanity of each instance would be numerically identical (in a sense, this is not so much a grouping as it is natural unity). On a trope view, groups are derivative and constructed; they are made and held together by relations. The members are the primary entities, groups are second-order (in the case of universals, the property in virtue of which things are grouped is more fundamental than the instances of that grouping). This is not a problem for positive rights, because there would seem to be no reason why something that is fundamental (a right) couldn’t have implications for something that is less fundamental (a group). The reverse scenario (having something that was fundamental depend on something that was second-order) would be problematic.

The difficulty comes when we try to find, on trope theory, a standard according to which all people can be measured. This was quite easy in the case of both transcendent universals and Thomist / Aristotelian style immanent ones (where, for instance, human nature may involve rational animality even though not all humans are rational), but on a trope account an individual cannot imperfectly reflect a property or instantiate it to a greater or lesser degree when compared with another individual. We know that individuals can be grouped by relations of similarity, and we know that these relations need not be exact (humanity trope A may resemble humanity trope B more than it does humanity trope C), but this does not tell us which of the tropes will set the standard. It would seem arbitrary to pick one over the others. We could, for example, come up with an account which says that the standard is to be that trope which is most representative of all the humanity tropes (this would be the one that is at the centre of the web of relations), but there is no reason why the most representative of the actual tropes need be in any way significant (presumably, it will be a trope of average quality). Besides, because human beings are constantly being born and dying, it is unlikely that the trope that is

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28 They can also provide an explanation as to why an individual must at times sacrifice his own interests for another: An individual is only valuable because of the humanity he shares in, and this humanity warrants concern in all its instances.
deemed to be the standard will remain so for any significant period of time (we would effectively have positive rights that were aiming at ever changing goal-posts).

We might wonder whether positive trope-rights really require a standard which is, it seems, non-exemplified. It might be thought that though there is no universal property against which all instances of a type can be measured, it is nonetheless the case that those instances can be measured against each other. Bacon (1995, pp. 129-131), in his brief discussion of ethics and tropes, makes use of the relation better than, and the same relation could be made use of here. It could be argued, for example, that whenever the relation better than relates two or more moral agents (or, more precisely, certain of the tropes of these moral agents) then somehow an obligation to help make the lesser agent become more like the better one arises.

This would not overcome the problem of arbitrariness, though, as that which my positive rights provided claims for would vary depending on the other people I was related to. If I happened to exist in a community full of educated, caring individuals, then I may have a claim to be helped to acquire these traits myself. If, on the other hand, I lived in a community of uneducated and morally dubious people, then I would have no claim to be helped to be better than what I am. Perplexingly, though, I may be obligated to help these other people become more like me. If we adopted this approach then we could no longer speak of positive rights to achieve our nature’s. Instead, we would have rights to achieve someone else’s nature.

I thus conclude that it is implausible to have natural positive rights on a trope theory.

In this section we have examined theories of rights that depend on properties and universals. We have also looked at what it would mean for a rights theory if we were operating from a trope, rather than a universals, perspective. This section largely concludes my examination of current theories. In section D I will attempt to develop a trope ethic.
SECTION D: A TROPE ETHIC

To ask whether men are equal, in spite of all the accidents which cause inequality among them, is the same as to ask whether there is one human nature, common to all men. Anyone recognizes here a particular case of the problem of universals, to which logicians used to dedicate much labor and ingenuity. Without a reminder, no matter how brief, of the principles commanding this issue, such expressions as “human nature,” “the unity of human nature,” etc., would never have a definite sense.

— Yves R. Simon (1951, p. 197)

The question remains: What would a trope ethic look like? As I think the previous sections have demonstrated, the identification of one metaphysical theory as true does not answer all our ethical questions. This is not to say that the true ethical view cannot be discovered; nor does it mean that metaphysical knowledge will be of no use to us in our attempt to discover it. I certainly anticipate that an appreciation of metaphysical truth will point us in the direction of the true ethic. Rather, it acknowledges that ethical truth is not a function of metaphysical truth — if I want to know how I ought to behave then more than simply metaphysical argument is required. A related point, and one that also needs to be stressed, is that although the benefits that come from metaphysical developments are likely to be useful in helping us formulate the rules or principles on which a trope ethic may be founded, we will need other arguments to apply these rules. I do not think, for instance, that it follows simply from trope theory being true that murder is wrong, or that helping someone in need is good. Rather, we may learn something about the applicability of consequentialist or deontological viewpoints (as witnessed in section B), or about equality or supererogation (to be explored in this section). It is up to us to develop these principles or rules into an ethical theory.

What follows will be a sketch of what a trope ethic might look like. Some of the points to be made I consider to be well-founded (at least so long as one accepts the metaphysical views posited in earlier sections), some points will be more speculative, but
will always accord with what I consider to be the ‘vibe’ of trope theory. The early parts of this section will focus predominantly on basic principles, the latter parts will address implications for the state of nature and human societies. As a rule, the material covered will become more speculative as the section progresses.

**D1 Bacon’s Trope Ethic**

To my knowledge, there has only been one attempt so far to develop an ethical account that relies on tropes, and this was a sketch by Bacon (1995, pp. 129-132) at the end of his book. It is worthwhile for us to examine this approach before I proceed to present my own. Consistent with the rest of his trope metaphysic, Bacon argues that the property of good is “a set of tropes”. He also identifies ‘inherently good’, which he defines as “those goods that enhance the world: good men, good will, good actions”, and the metarelation ‘inherently better than’, which he describes as being “irreflexive, asymmetric, and transitive” (p. 129). He suggests that improving the world is a matter of changing tropes, though with the caveat that a flaw in one part may make the world better overall. One would need to investigate the outcome for the world as a whole before confidently replacing a clearly inferior trope with a superior one, but “(very roughly) world improvement is characterized in terms of trope improvement” (p. 130). It is notable that while Bacon makes use of value properties (good or goodness, and, arguably, better than) he does not identify prescriptive properties (this is not to say that he ignores prescription – he thinks that his approach has “defined ‘ought’ in terms of ‘good’”, and points out that this “doesn’t necessarily show that it is secondary to ‘good’”, p. 131). While this is not a path I would take, it is nevertheless one which has been trod by many philosophers.

Important in Bacon’s theory are the relations ‘better than’ and ‘worse than’, which he uses to compare possible worlds, or the one world at two times. My approach finds nothing problematic about these relations, at least so far as relating the same world at two times goes (I find the idea of having genuine relations that span possible worlds problematic, as indicated earlier). Just as one object can be heavier at time B than it was at time A, so could a whole world be heavier at B than at A. Likewise, just as an
individual’s weight in goodness can vary over time, so can that of a world, and such a
difference can be provided for by genuine relations.

Bacon professes sympathy for a deontological ethic, and suggests that his
approach “is not, as one might have expected, explicitly consequentialist or utilitarian”
(p. 131), although he seems to regard this as being in contrast to Campbell. Campbell
(1981, p. 481), while not addressing ethics directly, did give a brief consideration to
evaluation. He wrote, after observing that “[c]oncrete particulars can be simultaneously
subject to conflicting evaluations”, that

On a trope analysis, the immediate object of evaluation is the trope, so that strictly speaking,
different objects are being evaluated when we consider the flavour and the clarity of the wine,
and thus the incompatible evaluations give rise to no problem at all.

While it is certainly open that Campbell’s analysis could include moral evaluation, it
seems to me that he is engaged in a somewhat different enterprise to that which engages
Bacon and myself. Campbell gives examples involving the flavour and clarity of wine,
and the strength and manners of a pole vaulter, to show that a concrete particular can be
subject to both favourable and unfavourable (or simply different) evaluations, and to
demonstrate, as we have seen, that it is the particular tropes, and not the object in its
entirety, that is being evaluated. But it seems, in all of these cases, that it is people
performing the evaluation (this interpretation is supported by his previous explanation of
perception, where he writes that “tropes are the immediate objects of perception” (1981,
p. 481), and points out that we perceive different tropes when we see and touch an
object). When we consider moral properties, though, we do not want them to be
dependent on human evaluation (this is not to say that they cannot be dependent on
human existence, or on the existence of other conscious entities, as I hope to make clear
below). The evaluation that we are concerned with is that which, it may be said, is being
performed by the universe itself.

I won’t be saying any more about Bacon’s ethic (as opposed to his trope
metaphysic). The similarities and differences between his approach and mine should
become apparent as we move through this section.
D2 Common Humanity

It is easy to imagine some of the ethical implications that could result from all people sharing in a 'common humanity' (a universal property). We saw in section C how, for some theorists, the sharing appears to be more important than the property itself. In equal measure, we all share in or instantiate this property, so it makes sense that that which is owed to humanity broadly should be allocated to human instances in equal measure. It is qua humanity that we have worth, say, and so it is to humanity that the result of this worth ought be given (as we saw in section A, on a bundle account, there is no individual, as distinct from that individual's properties, to whom it could be given; and the bare particulars of certain substance-attribute approaches would be seen as too bare to merit anything). There may also be the tendency, again seen in section C, to sacrifice individuals for the sake of humanity generally (much as Moore would have been inclined to sacrifice the goods of certain individuals for the sake of the Universal Good).

In the case of tropes the situation is quite different. I will have something to say about humanity tropes shortly, but for the moment we will be assuming them. In a world of tropes, every human will possess a humanity trope. Even though these tropes may stand in a relation of exact resemblance to each other (arguably forming a Baconian universal), they are nonetheless distinct entities – my humanity trope is distinct from yours, and each of these are distinct from those of every other human. Strictly speaking, it is no longer true that we share anything (in the sense that a universalist would see us sharing a common humanity). Now for the ethical implications. Unlike in the case of a universal humanity, anything that is morally owed to me (a bundle of tropes) is owed to me because of my individual nature (my individually possessing a humanity trope), and not because of the resemblance relations that hold between people or between tropes (as will shortly be explained, the moral worth of individuals precedes the relations). This is the opposite of the case of universals, where that which is owed may very well be owed in virtue of the collective possession of the relevant property (an ethicist who subscribes to universals need not think this, but it seems to be common for them to do so).

There is still a sense in which each human contains tropes that are the same, although this is a qualitative, and not a numerical, sameness. This sameness may be recognised by relations of resemblance, which arguably act as the glue that bind objects
into natural classes. In much the same way that compresence relations make individuals, resemblance relations make classes (even universals, according to Bacon). Natural classes are groups that naturally exist in the world and are different from other classes in that they are non-arbitrary. There might be natural classes for particular species, for all rocks or for particular kinds of rock, and for things like electrons, but the sum of my possessions does not form a natural class, and nor does the rubbish at the local tip.

Objects are members of natural classes because they have one or more tropes that resemble each other; these classes can overlap, so that one object can be a member of many, non-coextensive, groups (a green plant might be a member of the class of all plants as well as of the class of all green things). They can also be pyramid-like – for example, the class of all eucalypts may, in conjunction with other classes, form the class of all trees, which may be a subgrouping of the class of all plants. It is because of the tropes possessed by a particular object that it is a member of a certain class, in other words, it’s tropes are prior to its group membership; the grounding doesn’t work the other way, so that an object has certain tropes because it is a member of a particular class. The central point I want to make about ethics is this: Nothing significant about our moral natures can flow from the fact that all humans are members of the same natural class, because it is due to the similarity of our moral and non-moral natures that we are in the same class to begin with. To think otherwise is to put the cart before the horse. Let us examine what this means for equality.

**D3 Moral Equality**

The quote at the start of this section indicates that Simon thinks we are getting into trouble. He argues that the only way in which people can be fundamentally equal is if they share universals, which is something that the approach developed here necessarily rejects. This presents us with a serious challenge, because equality is a fundamental principle of almost all ethical theories. The implications of this equality might differ (we saw in section C the different ways in which equality can be understood), but the equality itself is central. Simon’s claim is not radical, and is consistent with the view, commonly held among universals theorists, that all similarity is partial identity – and if this is true of
similarity, it must certainly be true of equality. However, the challenge presented by Simon might be different than one would assume. I will not be arguing here that tropes can accommodate fundamental equality, I will be arguing that they don’t need to.

It is important to stress that the view just mentioned is not the only view of equality. Weale (2005, p. 238) provides a good (more trope compatible) account when he writes,

Strictly speaking, equality is a relation that holds between objects or persons in respect of some common characteristic that they share. In most respects, human beings are unequal: they exhibit differences of height, weight, intelligence, manual dexterity, earning capacity and so on.

Weale’s account still deals in something common, but this commonality is accounted for by way of relations. These relations are arguably the ones that help make natural classes. Whilst it is probably true on a trope account that all people are morally equal (at least before they perform good or bad acts), it simply cannot be the case that this equality is fundamental. It is important to distinguish between first-order (fundamental) and second-order equality. On a second-order equality, individuals may be equal because of the various relations that hold between them, but these relations hold due to the moral natures of the individuals involved — the equality does not precede the moral worth of individuals, rather, it results from it (they are only equal because of their pre-relational natures, in other words). If an individual is wrongly seen to be less worthy of moral regard than other individuals, the core mistake is not a lack of recognition of the equality of the various individuals, but a failure to recognise the moral worth of the under-appreciated individual (alternatively, the moral worth of the other individuals may have been over appreciated). Too often in political and ethical discussion, it is evident that equality is seen to be a primitive fact. This is something that is not possible on trope theory. I contend that this mistaken conception of equality can be dangerous in that it can lead to precedence being given to equality over the first-order moral aspects of individuals (things that are fundamentally important).

According to Campbell (1981, p. 487), “[b]ecause there cannot be relations without terms, in a metaphysic that makes first-order tropes the terms of all relations,
relational tropes must belong to a second, derivative order”. Though I think that relational tropes are just as real as single-placed tropes (this is true of moral equality, a form of relation), this does not mean that they are as important or as basic. The truth of the equality (as with any relation) depends on the individual natures of its terms. Equality cannot be a first-order matter, because its truth is dependent on first-order truths.

Consider an analogy from the non-moral realm. It is a true observation that many Easter eggs have an equal shape. Yet this is true precisely because of the tropes of each Easter egg individually, and because of the relations (of similarity or exact resemblance) that hold between the Easter eggs or between certain of their tropes. This equality does not precede the shape of the individual eggs, it is a consequence of them (this is true even though the cause of the shape of each may have been the same machine). If one were to measure two of the Easter eggs, the measurements would be the same because of the qualities of the individual eggs, the eggs would not be the same because of the equality of the measurements. Note, the way we discover their equal dimensions might be by measuring them, but the measurement is always a reflection of the reality, the reality does not reflect the measurement. This provides us with a useful lesson – focussing on the moral equality of individuals can be very helpful as a tool to assist in moral reasoning, which we shall shortly consider under the heading of Universalisability.

To demonstrate my point about moral equality I wish to posit a scenario. Image a possible world in which there exists a group of people, each of whom have equal moral worth in a derivative sense, i.e. the tropes that dictate the moral worth of each participate in a relation of exact similarity (there is not a trope within each individual that actually dictates that he or she should be treated equally with all other people). In this possible world, it shall be presumed that all people have a right to freedom of movement and association (whether people have this right in the actual world is not important for our present purposes, what is important is what follows if it is true). In our scenario, we have a city-state that is being, with some degree of injustice, ruled by a particular minority ethnic group. Because the right to freedom of movement and association is being presumed to be a natural right, it is one which cannot legitimately be taken away by the state. However, this is what the rulers have done: Restrictive curfews and limitations have been placed on all members of the society, with the exception of members of the
minority ethnic group that is in control. Now, while in this scenario all people should be given this freedom (their natural rights demand nothing less), this is not the case, and the question I want the reader to ponder is this: The ideal situation not being realised, what is the second best situation? Would it be having all members of the society living under the restrictive curfew, or would it be doing as those in charge have done, and giving a relatively small number of people an exemption?

My guess is that the intuitions of many readers would say that all members of the society should suffer under the curfew in preference to only some being given a race-based exemption, and that the principle of equality would be used as justification (the reaction here might differ if the curfew had different subjects and motive; if it were aimed at curbing teen drunkenness, then most would probably be happy in limiting it to young people). The argument that I am presenting here suggests that both the intuition and the justification are wrong, and that the better thing would be for the small group to be allowed to travel at will. This is due to the fact that each member of the city-state has a right to freedom of movement and association because of who they are as individuals — the equality that exists between them results from, it does not precede, this similarity (it is not the case that individuals are equal in a primitive sense, and derive the rights they have from this more basic equality). Suppose that there were a hundred thousand people in this city-state, only five thousand of whom are members of the race in charge. The question I ask is this: How, given that under the current arrangements there occur ninety-five thousand injustices, would this situation be improved by adding to this number of injustices? Just as it is often said that two wrongs don’t make a right, so too is injustice once inflicted not tempered by its being applied many more times. Undoubtedly, the best option of all (the one in which there is no injustice) would be to give all individuals the freedom to exercise their natural right.

(While the scenario we have just been considering deals with people living in a political system that has the power to direct the lives of its subjects, it was primarily an example of natural rights and natural moral worth. Equality under the law, rather than strict moral equality, is a separate matter, and this will be considered below).

It might be suggested that I have posited one way in which equality could be explained on a trope theory, but that this need not be the only way. It would certainly be
instructive to consider if there are more options. Because we are limited by the requirement that the equality not be of the second-order variety (this seems necessary if I am right about the reaction of many people to the above-mentioned thought experiment, as for them anything less fundamental than first-order equality would be unsatisfactory), there was only one other possibility I could come up with. This would involve having, amongst the bundle of tropes that forms an individual, one trope that actually demands that this individual be treated equally with all other human beings (to-be-treated-equallyness, perhaps). This trope would need to be pre-relational (in the sense that it would obtain even if the individual who had it was not related to anything else in the world), and would need to be solely resident within the one individual (otherwise it would be second-order). The question is, is this approach plausible? If we were dealing with universals, then I think it could be feasible, because on such an approach the similarity or sameness of two things would be explained by their both instantiating one or more of the very same properties (it would actually be a case of partial identity) – there would be no need for the similarity relations that become so essential on a trope theory. This is clearly different if tropes are assumed, however, as we no longer have any metaphysically real similarity that is pre-relational, which would make a first-order trope that demands this seem rather queer.

**D4 Universalisability**

A claim that is often made is that in order for a judgment to qualify as a moral judgment it needs to be universalisable. This is also held to be true of the tenets of ethical theories. It will be instructive to examine how the theory here presented fits in with this alleged requirement, but before we do this it is important to note that there are, broadly, two different ways in which universalisability has been considered, the first of which is somewhat weaker, and we shall be exploring these separately.

According to the first account, universalisability is seen as a *guide* to moral action, or as a tool that helps people in moral decision making. This is essentially Kant’s advice for people to “act only on that maxim [principle] through which you can at the same time will that it become a universal law” (O’Neill 2005, p. 508). If I find myself in
a situation where I am tempted to perform action x, yet am unsure as to the moral appropriateness of such an action, it can indeed be helpful to consider whether another person, in a situation relevantly similar to mine, should also perform x. There is likely no better tool for determining if my actions are right as opposed to expedient, and also to ensure that the bias that is inherently present whenever one considers a situation that involves oneself is at least minimized.

According to Bambrugh (1966, p. 159), this is all that is involved in universalisability. He writes that

[the so-called requirement of "universalisability" is a fancy-dress version of the requirement of consistency which all reasoning, in all fields, must satisfy. Whenever I make two different judgments, of whatever kind, I must always be prepared to discharge the onus of showing that there are differences between the cases that justify the difference in my judgement of them.

So universalisability is related to the notion of equality (or at least similarity). I argue that even though equality is only a second-order fact, and that we are not actually owed anything as individuals in virtue of our equality, by keeping it in mind when we make moral decisions it nonetheless contributes to ensuring that we give people the regard that they are due (even though this regard is due them for reasons more fundamental than equality).

It is on the second account that universalisability is seen as a central component of moral theories more formally developed. According to Hare (1963, pp. 89-90), a major proponent of universalisability, an action is universalisable when (among other things) we are “prepared to accept [it] as exemplifying a principle of action to be prescribed for others in like circumstances”. Further (p. 90),

[i]f, when we consider some proposed action, we find that, when universalized, it yields prescriptions which we cannot accept, we reject this action as a solution to our moral problem – if we cannot universalize the prescription, it cannot become an ‘ought’.
The quotes from Hare refer to particular actions, but they apply just as well to theories. If a theory were to suggest that it was okay for person A to perform x in a certain situation, but that it was not okay for person B to do so in a comparable situation\(^{29}\), then this theory would not conform to the principle of universalisability. As a result, it would not be a moral theory at all. It should be noted that even if this is accepted, there may be quite a lot of scope for spotting ‘relevant differences’ between what at first glance seem to be comparable situations.

It may be thought that an ethical theory, such as the one presented here, that fails to regard equality as a matter of prime importance, may also run afoul of the rules of universalisability, but I hope to demonstrate that this is not the case. On a trope account, even though no two situations are the same in the sense that they contain the very same universal, they can be said to be the same on the basis that they contain tropes that participate in a relation of exact similarity. This means that two situations (we looked at the trope composition of situations in A2.8) can be effectively identical or at least relevantly similar (not all the tropes need be the same, only the ones that influence the moral outcome). The emphasis that has been placed on supervenience (where moral properties are seen to supervene on ‘natural’ properties) throughout this thesis bodes well for its universalisability. According to the way supervenience is usually defined, if two situations are identical in respect to their non-supervening tropes, then they must also be identical in respect to their supervening tropes. Therefore, if a particular moral response is demanded in situation A due to the fact that it involves a certain set of base tropes, then, if situation B is relevantly similar to A (i.e. if it contains base tropes of the same kinds as those important in A), then the same moral response must be demanded in it. This is the very picture of universalisability.

\(^{29}\) The specification that the situation be comparable is important, and involves B standing in the same relation to other relevant entities / factors as A did. As has been pointed out to me, if the requirement were looser, then a theory that argued that it was permissible for person A to neglect the parents of person B, but not permissible for person B to neglect person B’s parents, would end up not being a moral theory at all. One may agree or disagree with this position, but, either way, it is clearly a moral theory.
D5 The Case Against Humanity

In our trope ethic we shall want the set of entities that are entitled to moral consideration to include at least the vast bulk of humans (if not all of them), and possibly other beings, such as animals, spirits, or space aliens. We do not want it to include such things as chairs, tables and rocks. In other words, we require a grounder for moral consideration. The first thing to do is make clear what this grounder is not. Earlier in this section (as well as in section C) it was assumed that the property that acts as the moral grounder is humanity. Now I wish to give reasons, first of all, for doubting that humanity is an actual property of certain objects (humans), and secondly, for holding that, even if it is a property, it not a good candidate for the role of moral grounder. In doing so, we shall hopefully gain some indication of what the moral grounder actually is.

When considering the alleged property that is humanity it is useful to remember Moore’s analysis of goodness. We should ask ourselves: is this property to be identified with some other (natural?) property, or is it distinct from all other properties? Perhaps the property of humanity can be reduced to some fact (or facts) about our biological makeup (a particular genome, perhaps), or to some ability that we alone possess (rationality?). Alternatively, but still on the reductionist approach, humanity may be a rich complex of tropes. While the reductionist approach provides countless options, the non-natural approach is problematic in a more fundamental way. What sort of property would a property distinct from all others be like? It does seem that if we had a magic wand and wished away all properties barring that of humanity (or something similar) that there would not be one property left, but none (even if our magic wand would have allowed it to have had a separate existence). Trying to imagine such a non-natural property is difficult – I have struggled to think of a property that is both had by all people (and only people) and that doesn’t have an ordinary term that refers to it\(^{30}\) (for example, weightiness, extendedness, colouredness, even happiness and sadness, etc.).

\(^{30}\) The property of being a sinner has been suggested to me as one that meets the above criteria, though it is not one that will find universal agreement. Depending on one’s world view, it may simply be untrue: There may be some people who are not sinners – according to certain traditions, this was arguably true of the virgin Mary (though one must make a distinction between being born without original sin, and committing no sins, venial or mortal, during the course of one’s life); or sinner, while being a true description of some or all people, may not refer to an actual (i.e. metaphysically real) property. Alternatively, it may be true but unimportant, where being a sinner is just one property among many. Finally, it may be true and important.

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Let us give some more consideration to humanity being a non-natural property. Imagine what would happen if we were trope surgeons and could remove individual tropes from a bundle. Suppose that Fred Smith is a bundle of compresent tropes, and that among his tropes is a humanity trope. We have seen that it is hard to imagine what this trope would look like if it was separated from the rest of the bundle, so let us take the opposite approach — what would be different about the Fred Smith bundle if the humanity trope was removed? Would he melt away like the Wicked Witch of the West? It seems unlikely that this would happen. And if humanity did turn out to be a property whose über-abstraction meant that its removal had no perceptible impact (a possibility raised by the foregoing thought experiment), then what is to stop such a trope from existing within a chair (for any trope that can be removed without any effect could surely cause no disruption in being placed elsewhere)?

One candidate would be ensouledness (the property of having a soul), which would clearly be a non-natural trope (unless these are actually collections of tropes, but we shall be assuming for our present purposes that this is not the case). I am not an authority on souls, but I understand that they have come to be regarded as more non-natural as the centuries progressed. Nowadays souls tend to be regarded as something apart from consciousness or movement, whereas there was a time when souls were posited to account for these — for Plato they were a separate part of us, and accounted for mental properties; for Aristotle, our having of a soul was identified with our being animated beings (Swinburne 2005, p. 982). On a Cartesian approach, animals were regarded as mere automata whose actions were the result of mechanical processes rather than consciousness. What seems to have happened is that over time it was realised that ordinary properties (such as movement and consciousness) could account for many of the things that a soul had previously been used to explain, but, instead of taking this as evidence for the soul being redundant, proponents engaged in ever more abstraction and took the soul to be increasingly mysterious. While people have believed in souls for

but not central to making someone a human being. For example, everybody sins, but it is some other property, such as consciousness, or even soul possession, that makes us human. For these reasons, and due to my own doubts about it, I do not think that we can reduce humanity to the property of being a sinner.
thousands of years, it is unlikely that people of past ages would find anything recognisable in the conception of souls that dominates today.

It is thus looking doubtful that humanity is a non-natural property.

If humanity isn’t a non-natural property, what might it be? The word does have several different meanings. The New Oxford Dictionary of English (Pearsall 2001, p. 893) defines it as “the human race; human beings collectively”, “the fact or condition of being human”, and, in a different sense, “humaneness; benevolence”. The initial definitions, which merely refer to us as a grouping, are certainly uninspiring. Only the last sense suggests that the term denotes something of moral significance, although as there is no suggestion that this is a property possessed by all humans, it would seem futile to consider this as a grounder. The question remains – on what basis are we being grouped? Let us consider a couple of naturalistic possibilities.

According to biologists, what makes organisms members of the same species is their capacity to breed together and produce fertile offspring. In recent times, geneticists have also had notable success in specifying the human genome (our genetic makeup; it is this genome, presumably, that enables us to produce the fertile offspring). Humanity, then, may simply be the property of having this genome. According to the Penguin Encyclopedia (Crystal, 2004, pp. 743-744), as of the year 2000, 90% of the human genome had been identified (involving 40 000 genes). Though a genome represents the typical genetic composition of a species, and, hence, though there can be members of a species whose genotype differs from that of the group as whole, it would seem that the human genome is a candidate worth considering for being the essence of humanity.

I shan’t be writing any more of the human genome, except to assume that the 100% mapping of it is quite achievable. To me, this isn’t the issue. Instead, we should note that even if it is our genetic makeup that groups us into a natural class, it is not clear what would morally follow from this. There are many things that we might be prepared to treat seriously as potential grounders for an individual’s deserving of moral regard – sentience, capacity to feel pain, desires about the future, soul possession, etc., but genetic

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31 It has been suggested to me that, in this sense, humanity involves “responding to a recognition of a common humanity (non ideal meaning) in others”. If this is so, then this sense of humanity is dependent on the sense we are trying to discover.
makeup just doesn’t seem to be one of them. Our genetic makeup may make a community of us, but not a moral community. After all, the class of all roses would also be formed on the basis of the rose genome, but it would be strange to think that this supplies some moral worth to a rose bush (with the implication, perhaps, that each rose bush has obligations to every other rose bush). Besides, in following this line of reasoning we risk giving the group precedence over the individual (something which, we have seen, is a mistake on trope theory). In looking for the property that makes a moral group of us, we are looking for a property that was morally significant at the level of the individual (one that would be important to an individual even if he or she was the only being that possessed it).

Another option is to be less specific and develop an account of humans that relies on many tropes. It will be remembered in section A2.6 that we explored trope accounts of concrete particulars (ordinary objects). It was said that these could be explained in terms of trope-clusters, or bundles of tropes (it was pointed out that there was no need for substances in trope theories). In A2.7 a trope-cluster account of persons (borrowed from Campbell) was suggested. Our account of individual humans (humanity instances) will be similar\textsuperscript{32}. A human is a mass of tropes. These tropes are closely related to one another (by way of compresence and causation). While the exact trope makeup of an individual human is constantly changing, most change is gradual, and there is almost always a strong continuity over time. There are both pertinent and peripheral tropes. The pertinent may be things like consciousness, rationality, bi-pedality, genome, and / or voice. The peripheral may be things like fleeting mental states, colours, and aspects that are inherently relational.

As humans compose a class with the help of relations of similarity, it is important that they all have many things in common, but they need not have everything (or even the same things) in common. A brain dead individual can still be a human despite the fact that he lacks consciousness (an important human attribute), because of all the other things

\textsuperscript{32} It is common to distinguish between human beings and persons, where the former is regarded simply as a biological grouping, and the latter as a grouping that has some moral relevance. Importantly, the two groups may not be coextensive (babies are human beings, but may not be persons if they haven’t achieved a high enough level of consciousness, and chimpanzees or space aliens are not human beings, but, arguably, may be persons if they have mental capacities beyond a certain level). This distinction does not hold up as well when we consider moral worth to be derived from our humanity.
he shares with other people. Likewise, a genetically aberrant individual will not perfectly share the human genome, but the genetic makeup he does have, his mental characteristics, and other qualities make it the case that he resembles the other members of the human class to an adequate degree to ensure his own admittance.

This appears to work well, but it is nonetheless the case that whenever we form classes other than by way of sharing in one or more particular properties, we make it the case that there is graded membership. On this approach, some individuals must of necessity be more human than others. Likewise, there will inevitably be cases where we are uncertain about whether an individual falls just inside, or just outside, the class. In other words, we could know everything there is to know about the trope makeup of a particular individual, and we may know everything there is to know about the trope makeup of human instances generally, yet still we may be unable to determine whether an individual qualifies or not (though the classes we are discussing are natural, there is presumably such a plethora of natural classes into which objects may fall that all humans are doing when they identify some is identifying those that they deem important). Not only is this unsatisfactory from a categorisation point of view, but it would be unsatisfactory from the perspective of the many theorists who want to find something that is common and unchanging among all human instances, and in virtue of which they are human.

Another problem with humanity being a complex structure is that it is clear that not all of the tropes that contribute to making someone a human are morally relevant. Unless the whole acquires moral relevance from the conjunction of morally irrelevant parts (this seems ridiculous — we are not dealing with supervenience, merely conjunction), then it makes sense that it is only certain of the properties involved in humanity that supply the moral relevance. If this is so, then it is these other properties (not the humanity complex as a whole) that should receive our attention.

We are left with a choice. If we adopt the non-naturalist approach, we can either reject the property of humanity, or we can accept that there exists a property which serves no purpose — in other words, we can multiply entities beyond necessity. If we take the naturalist approach, we may be able to say what humanity is, but we will be unable to
explain why it is important. In short, we can either reject the humanity, or accept its existence but deny it moral importance. Either way, we need to find a new grounder for moral importance.

While I have not explicitly argued for this position, I think that the foregoing demonstrates that the best candidates for the grounding of moral properties are mental properties, particularly ones such as consciousness and desires (ability to feel pain, joy, sorrow, etc., may also be important). Physical characteristics would be poor candidates – we do not, ordinarily, consider objects with only physical properties to have fundamental moral worth (they may have some degree of a derivative worth), so it would be strange to hold the moral worth of bundles with both physical and mental properties to result from the physical properties, or even from a conjunction of the physical and mental (I, at least, would be inclined to give greater moral consideration to a conscious spirit than an unconscious human).

Though having mental properties seems to be a necessary condition for having moral worth, it has been suggested to me that it is not sufficient. Some theorists think that the capacity to experience pain is the important moral grounder, and pain depends on a physical form to be realised. This much is true, but I have heard of a real-life scenario in which members of an Indian (?) family possessed a gene that made them impervious to pain. Members of this family would perform harmful circus tricks, and largely died young as a result. If it is capacity for pain that is important, then these people would have no fundamental moral worth, but to suggest this seems absurd. I think that it is better to regard mental life itself, rather than the particular content of mental lives (such as pain), as being important.

It has also been suggested that an entity’s capacity for deliberate action is what makes it deserving of moral concern. While this would appear to require the mental, it also seems to require the physical. The source of my desire to walk to the shops might be my mind, but my body is necessary to get me there. This matches with much of what we want to say about moral regard in daily life, but it also has unappealing consequences for

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33 I should note that these people could still feel things, such as a rod being pushed through their arms, they simply did not experience the pain that would ordinarily be associated with this. I don’t think changing the requirement to being capable of physical sensation (instead of pain), would make much difference, as it seems possible that people could exist (and even function) without any physical sensations.
certain paralysed people, who may be mentally active despite the fact that they are unable even to move their lips. It seems clear to me that such people still warrant moral concern.

I will have more to say about the role of the mental in D7, below.

**D6 Supererogation**

One issue where I think a trope ethic comes out favourably is in respect to supererogation. Intuitively, it seems that of the good things that one can do, there are some that are above and beyond the call of duty. It might be my duty to look after my own family, conceivably, but merely good to look after non-relatives. The problem is that many consequentialist, and, to a lesser extent, deontological, ethical theories find no place for this intuitively sensible notion. It is worthwhile briefly exploring the notion of supererogation.

While, at the core, different philosophers seem to mean roughly the same thing by supererogation, the particularities of each definition are important. One of these is Jacobs (it should be noted that he takes a different approach towards ‘good’ than is taken in this thesis – he follows the more reductionist approach of Paul Ziff, which holds “that ‘morally good’ means ‘answering to the interests of morality’” (Jacobs 1976, p. 104)), he does not identify good (or goodness) as a property that actually exists in the world). Regarding supererogation, Jacobs (1976, p. 131) claims that

Supererogatory actions are actions which are done for the sake of others, or on principle, and which either are likely to actually benefit others, or are an instance of a type of action recommended by a moral principle... Supererogatory actions differ from other morally worthy actions by being too costly to the agent to be his duty, and too costly to the agent and too beneficial to others to be simply a favor.

I disagree with Jacobs’ distinction between supererogatory actions, duty and favours. There is nothing that I can see central to supererogation that says that actions cannot be non-obligatory, easy to perform, and yet still good in a supererogatory sense. The example of donating to charity seems to supports this: A man walks past a lady with a charity collection tin, if the man decides against making a small donation, then (unless
one is a consequentialist) it does not seem as though he has done anything wrong, even though giving away a few dollars would not hurt him, and it could be easily done. Yet if he did make the donation, it does seems right to regard this as being good (a small good, to be sure, but good nonetheless). The action clearly was not a favour, and nor was it the man’s duty.

Another philosopher who deals with supererogation is Heyd (1982, pp. 1-2), who identified four important aspects of the concept. First, that it is actions that are supererogatory, not people or anything else. Second, “these acts are optional or non-obligatory”. Third, “they are beyond duty, fulfil more than is required, over and above what the agent is supposed or expected to do”. Fourth, “supererogatory acts have a special value; they are morally good and praiseworthy”.

Then there is Dancy (1988, p. 170), a philosopher who sees value in adopting a realist attitude to both evaluative and deontic (what this thesis has elsewhere referred to as prescriptive) properties (although he does not explore whether these are universals or tropes). He makes a distinction between strong and weak supererogation. Strong supererogation holds that there can be actions that are morally valuable but which do not have deontic or prescriptive properties associated with them (i.e. a person is not obligated to perform them). Weak supererogation, however, “sees the supererogatory act not as an act that is not our duty despite its value, but as an act that, despite being our duty, or at least being one we ought to do, is one whose non-performance does not attract sanction, disapproval, or penalty” (p.175). I am inclined to regard weak supererogation as not being supererogation at all – going beyond the call of duty does seem to be central to what is meant by supererogation, and it would be contradictory to argue that in fulfilling ones duty, one can be acting beyond the call of duty. Weak supererogation could only be palatable to those theorist, such as consequentialists and Kantians, who hold that if it is good to perform an action then it must be our duty, but who nonetheless wish to accommodate the deep-seated intuition that sometimes individuals do produce more good than is required of them.

I also take issue with Dancy’s apparent position that, whatever the deontic / prescriptive nature of an action, for an action to qualify as supererogatory, the action needs to have a moral value directly associated with it. This may not be a major issue, but
while I see no problem with supererogatory actions having such a value, I also see no problem in labelling supererogatory an action that directly results in something valuable, but which is itself without value. An example would be the act of moving one’s arm – there is nothing inherently good about such an action, but it can have good results, such as if the movement pushed someone out of the way of a speeding train (even here, I think it would be inaccurate to suggest that the action itself literally possesses goodness). Indeed, I am inclined not to regard supererogation as itself being a property, instead I adopt a more reductionist or nominalist approach where supererogation simply means something like ‘going beyond the call of duty’ or, more specifically, ‘producing a good outcome that one was not under obligation to produce’, probably with the requirement that this be the intended result. An exact definition, as with most words in the English language, is probably unnecessary – we need not be obsessed by consequentialist-inspired problems such as would a non-obligatory action that produces some good still be supererogatory if there was another action, also available to the agent, the performance of which would have produced even more good? I think we can leave open whether such an action is supererogatory.

I commented above that many ethical theories find no place for supererogation, and it is fairly easy to see why this is so for consequentialism. On consequentialism, one’s duty is always to act in such a manner as to produce the best possible result. There is no room here for options (unless more than one possible action would be optimific), as once one has fulfilled one’s duty there is no further good that one can do. Conversely, if there is more good that one could do (or could have done), then one has not been fulfilling one’s duty. Deontology, which tends to place an even greater emphasis on duty, also experiences this problem. Deontic-man (on certain accounts) has obligations to perform certain actions, and obligations not to perform others – everything else is outside the moral realm (see Audi 1999, p. 890). According to Heyd (1982, p. 73), on crude versions of deontology at least, the property goodness is actually derivative of the more fundamental duty (this is contrary to the relationship between value and prescriptive properties that was posited in section B of this thesis), so if we were to rid the world of duty then we would also be ridding it of goodness. This rejection of what I would call genuine supererogation need not be a necessary aspect of deontological theories (though I
think it must be for consequentialist ones), although it does seem to be prevalent. The
task of this section is to develop a deontological theory that is not only compatible with
supererogation, but which gets much of its strength from it.

I wrote above that a trope ethic accords well with our intuitions regarding supererogation,
though this may be only partly true. The trope ethic that I have been developing certainly
allows that one may perform good actions, or actions that have good consequences, but
which go above and beyond the call of duty, but it also, I contend, may allow for only this
kind of good (or good producing) action. As indicated at the start of this section,
knowledge that trope theory is the correct metaphysical theory may tell us much about
ethics, but it need not tell us exactly which acts are good or bad. I think that there are two
ways that a trope ethic may be plausibly developed (both ways are deontological in
nature). The first sees there to be no natural positive obligations holding of individuals,
only negative obligations. The second sees there to be a limited number of person-
specific natural positive obligations in addition to negative obligations. So we are clear,
an obligation is a natural positive one if it meets three criteria. Firstly, it must be
metaphysically real. Secondly, it must come about other than by agreement (it would
occur even if the individual did not enter into a contract, say). Finally, it must be positive
in the sense that it requires the individual to perform an act, rather than refrain from
performing one (an example of the difference would be helping the victim of a beating as
opposed to refraining from beating someone). We shall examine the first option first.

D6.1 Option One

To appreciate the case against natural positive obligations, we must re-consider the lesson
we received from Prichard in section B1.2.2. It will be recalled that Prichard argued that
to-be-doneness and not-to-be-doneness must be associated with the person who ought or
ought not act in a certain way, rather than with the action itself, because otherwise the
obligation to perform or not to perform that action would only come into existence with
the action. Prichard wanted an obligation to exist not only prior to the performance of the
action, but for it to exist (or have existed) even if the action was never performed (so that
it can be truly said of someone that he ought to have done something that he didn’t do). It will also be recalled that I, suspicious of attempts to remove obligations and other moral properties from the external world and place them too completely within people, rejected this approach. I also suggested that this was intuitively problematic only for to-be-doneess, although the problem is not so great if we are prepared to bite a few bullets. Let us explore this further.

While libertarianism is a view in political philosophy, and not in normative ethics, it is fair to describe it as deontological in nature. It focuses on how one may or may not act (irrespective of the consequences of one’s actions), the central idea behind it being that people should have liberty to do as they please, so long as they do not commit certain wrong actions (which are seen to involve limiting the freedom of other individuals). Forbidden actions are ordinarily seen to be those of commission rather than omission (unless one has incurred a specific obligation, such as might occur if one has children or enters into a contract). A person is obligated not to harm another, for instance, but is not obligated to help one who has been harmed. This first option that I am developing will follow this traditional libertarian account, though it will continue to make use of value properties such as goodness, which are not so much denied by traditional libertarian theories as they are made redundant by them – libertarian theories typically find a greater role for prescriptive properties than for value properties, particularly those of the ‘not to be done’ kind.

As in most ethical theories, the property of goodness will apply to situations and people and also, perhaps, to actions. In our case, goodness tropes will be supervenient, meaning that whenever certain base tropes are present (for example, those involved in a person or situation), then so too will goodness be. Following Prichard we know that prior to the action and the goodness, there can be no property compelling the performance of the action. This is because the prescriptive property must supervene on the action (which may include a value property), and there is no such thing as pre-emptive supervenience (where a supervening property appears in anticipation of its subjacent or base property or set of properties). This means that the only time someone is morally commanded to

\[^{34}\text{It is worth noting that while to-be-doneess could still come into existence with the performance of the action, it would seem to be redundant (the action would already have occurred / be occurring). This}\]
perform an action is when he actually performs it. In other words, one is ordinarily under no obligation whatsoever to perform good acts or acts with good consequences. Not only am I not obligated to put some coins in that charity collection tin, neither am I obligated to resuscitate the charity collector if she collapses (even assuming that I was trained to do so, and that there was nothing even more urgent requiring my attention). It needs to be stressed again though that the performance by me of such an action is good (it’s just not obligatory).

This is likely to be unpalatable to many people, though I think that this approach also has some intuitively appealing aspects. To say that good actions are obligatory is almost to reject many of the connotations associated with goodness — indeed, goodness becomes almost redundant if it is always the duty associated with it that prompts us to act, and never the goodness itself. This is essentially the problem of saints that is often brought up to contest theories that deny supererogation — how can someone be worthy of praise simply by meeting his obligations? Likewise, when it comes to award ceremonies. It is rare to see an award inscribed for fulfilling his duty, rather for going above and beyond the call of duty is much more common. I suggest that both the accommodation of supererogation, and the separation of goodness and duty, are major strengths of the trope view here presented. So much for to-be-doneness, what of not-to-be-doneness?

While the treatment of not-to-be-doneness will be technically the same, there are differences in implication. Let us examine how it will come about. Like value properties, disvalue properties (such as badness) will also supervene on certain actions, situations and people. Where there is an action that ought not to be performed, it will instantiate not-to-be-doneness (this will supervene on the other properties). This prescriptive property will not exist prior to the performance of the action, although, as we saw in B1.2.2, it is somewhat less redundant than to-be-doneness, because it can be known to occur every

certainly does not rule out its existence (its presence demands nothing other than that which has already been done; it negates nothing, nor does it contribute to a contradiction). The law of parsimony requires reluctance in admitting such properties, so, in the absence of a compelling reason, I will not be admitting to-be-doneness into this moral ontology.

35 On those occasions when such an award is given, it is normally given to people who have willingly incurred duties that do not hold of most members of the population (for example, fire-fighters and police officers). Though such people have not done more good than is expected of them given their occupation, they have done more than would be expected of them as ordinary members of the community.

36 The strongest argument in favour of admitting to-be-doneness seems to be its structural similarity to not-to-be-doneness, for which there does seem to be a role
time an action of a certain type occurs, and because its non-occurrence is a good thing (it means the bad action has not been performed). If in Case A a not-to-be-doneness trope supervenes on a set of base tropes, say tropes A1, A2 and A3, then, provided base tropes B1, B2 and B3 are exactly or relevantly similar, then a not-to-be-doneness trope will supervene on them also. In effect, it will be as if the command to not perform a certain action existed prior to the performance of the action (as already stressed, the non-occurrence of a not-to-be-doneness trope is a good thing, not a bad thing).

So, on this first possibility there will be absolute commands not to perform certain actions (bad ones) even though there will be no such commands to perform good ones. As indicated, I am aware that this will be unpalatable to many people, but it also means that our trope ethic fits squarely within the tradition of libertarianism. As libertarianism is an established position when it comes to ethics and political philosophy, this is an intuitive plus for this approach. But there is also another option.

**D6.2 Option Two**

This second approach will be very similar to the first, except in respect to certain implications (it will allow for a small number of natural positive obligations). This approach will accord well with those traditional deontological views that see people to have certain positive obligations to a limited number of individuals, such as parents (*honour thy father and thy mother*). Let us examine how this would work. As indicated in B1.2.2, it is possible to regard the act of refraining from performing an action as being an action itself. Often this would seem implausibly cumbersome ('thou shalt not perform the act of refraining to help a stranger'). But there are also examples, such as 'thou shalt not act to neglect one’s parents', that seem more natural. I suggest that this is so because of the strength of the natural relation that holds between a man and his parents. Because of this relation, *neglecting one’s parents* could be an action, and this action could instantiate the prescriptive property not-to-be-doneness. As a result, an individual would be under a positive obligation to look after his parents (this being the case even if he did neglect them).
There are presumably other possible examples of natural positive obligations as well, although I think these must necessarily be limited to those with whom one shares a close relation\textsuperscript{37}. It seems unlikely that I could have natural positive (as opposed to negative) obligations towards people with whom I share no particular association, for instance, because the number of people with whom I lack an association is so great that I could not possibly meet all of these (however little they required of me). This is not only awkward, I contend, but metaphysically problematic. Suppose that I was positively obligated to help people who were drowning. If I passed a beach and saw a drowning person, the relation between us would make it the case that if I were to neglect that person then my behaviour would cause not-to-be-doneness to occur (I would thus be obligated to help). Furthermore, because this prescriptive property supervenes, it must occur whenever I (or anyone else relevantly similar to me) finds themselves confronting a drowning. This would mean that if I confronted a capsized boat with a hundred drowning people, then I would have a positive obligation to try to save all of them as individuals (note my points in the next subsection regarding obligation). This is because the relation that holds between myself and any (every) one of these individuals when they are drowning en masse is the same as if any one of them was drowning alone. If I am obligated to immediately act on an individual’s behalf when that individual is drowning alone, then I am obligated to act immediately in respect to each individual when there are many people drowning. The principle of moral supervenience demands that the same obligation hold when the same base tropes occur.

Now, it is true that the overall situation is quite different in the case of a single as opposed to a mass drowning, but I don’t think that this is a relevant difference when it comes to which moral properties supervene. This is because the overall situation is still a composite of various smaller situations (individual drownings). Supervenience is law-like; if you know that certain base properties are present, and if you know that certain other properties supervene on these, then you know that the supervening properties are automatically present. Further information cannot change this (e.g. it cannot be the case

\textsuperscript{37} I think some relations can accurately be described as stronger or closer than others, even though all genuine relations would be equally real (the relation of me being thirty centimeters from my computer screen would be just as real as the relation of me being however many billion kilometers from a certain celestial object).
that \( i \) supervenes on \( e \) except if there’s also a \( c \). Additional properties could arguably supervene on the conjunction of the smaller situations (involving base and supervening properties of their own), but if these offered a contrary moral command (such as ‘just do the best you can’) then this would not provide a resolution to the problem, but a contradiction (because the other prescriptions are still there). It should be stressed that even if an individual is not under an obligation to help drowning people, it can still be a genuinely good thing for that person to do so.

Again, the above suggest to me that while we may have some natural positive obligations, these must necessarily be limited in number. Of course, the problems just raised could apply to any positive obligations (would I not be under conflicting obligations if both my mother and father were drowning?), although these seem less problematic if there are necessarily less people involved. As indicated, the ethic that results from this would still be deontological, rather than consequentialist, in nature, although somewhat less libertarian.

**D7 State of Nature**

So, where do we go from here? In previous sections, consequentialism was rejected and support was found for negative rights. More recently, it has been argued that humanity is not a genuine property, and that equality, while existing between people, is not of fundamental importance. It has also been suggested that all (or, at least, most) good actions are supererogatory. Now we must explore what this means for individual people and their day-to-day lives, and the best way to do this is by taking a journey to the state of nature.

I am someone who has always found the notion of a state of nature to be useful when considering political philosophy, and even when considering ethics more broadly. A state of nature can be posited to serve at least one of two purposes: 1) it may try to provide an historical account of the development of human society, or; 2) it may act as a theoretical construct to enable us to determine what is right or wrong, or what obligations people have, or fail to have, in the absence of political authority (for this purpose, it is
irrelevant whether there ever was such a time or place). Many of our obligations in the present day come, at least ostensibly, from the state, with the result that it can be hard to distinguish inherent from derivative value. It is pretty clear that the obligation to obey the road rules comes from the authority of the state\textsuperscript{38}, and not from natural law, but what of the obligation not to steal, or the notion of ownership itself, or the requirement to support one’s children? It is true that we all have answers to each of these questions (though our intuitions can differ greatly), but it is also true that these are not so obvious as in the case of road rules. For this reason, this second purpose is by far the most important of the two, and it is the one with which we are presently concerned.

Our task now is to consider what a trope philosophy means for ethics in the state of nature. This is a reasonably straightforward task, and not very different to what we have been doing throughout this thesis – indeed, while the moral scenarios I have posited throughout have generally taken place in the modern world, they have failed to consider issues to do with man-made law, and have relied solely on a natural morality. Further below we shall consider what a trope ethic means for the development of, and for life within, the state.

In the state of nature, the entities entitled to moral consideration are individual humans (and perhaps individual animals, space aliens, or spiritual entities). Groups, such as households, races or species, can have no fundamental moral worth, although they may be morally relevant in a derivative sense. It should be noted that some accounts of the state of nature do see the family unit as being the most basic unit of moral relevance. This is not an option for my argument, given that I have claimed that moral relevance results from mental states, and given that such states exist in individuals, and not in family units (except in so far as they are composed by individuals with mental states). The fact that individuals in the state of nature may regard their family units as being fundamentally valuable does not establish that this is so. It is useful to explore how such groups may acquire derivative value. This can come about in one of two ways. Firstly, a group may be said to contain the sum of the moral worth of each of its members. While true, this is

\textsuperscript{38} Historically, many road rules existed as conventions before they were made into legal requirements. This is notably true of the side of the road on which drivers were expected to travel. Even with conventions like these where there is no clear causal origin, it would seem that the obligation to follow them (if, indeed, such an obligation obtains), is of social rather than natural nature.
not particularly important, as it does not transfer any moral authority or claim from the parts to the sum. The group does not gain the authority to act in the individual’s supposed ‘best interest’, for example. Secondly, and potentially more significantly, this may happen as the result of the use of certain powers individuals may have as moral authors. Without presupposing what powers such individuals have, this is what may happen if individuals naturally have the power to enter into binding contracts. The social contract would be an example of this, where individuals actually give away some of their moral rights or claims to the state (in return for certain benefits). The state then has the legitimate authority to act for the group over the interests of individuals. But this is not central to our current interest.

We saw above that some degree of mental activity seems to be a requirement for moral relevance. I now suggest that in order for a moral trope (value or prescriptive) to supervene on part of the world (which is the only way, I have argued, that it makes sense to think of moral properties existing), then at least one of the base tropes must be a mental one (involving consciousness, or self-consciousness, or intentions, or desires, for instance)\(^{39}\). This is likely to be an uncontroversial claim when it comes to prescriptive properties (it would be strange to think that an entity with no conscious aspects, such as a rock, could have obligations to perform or not to perform certain actions\(^{40}\)), though it also means that in the absence of mental life, there is nothing about the world that can genuinely be said to contain the property of goodness or the good, or any other value property. To give an example, this would mean that there would be nothing genuinely good about the planet we live on, even if it contained rivers and plants and was such that it would ordinarily be described as being beautiful, but did not have any conscious life\(^{41}\). Remember the requirement (as argued for in section A2.8) that in order for a trope to truly be said to supervene on certain other tropes, it must be compresent with each of those tropes taken as a group. The consequence of this is that even if a person were to

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39 Remember, value properties can depend on consciousness for their own existence, even though they exist independently of human perception (the mental causes them to objectively exist, even if it fails to recognise them).

40 I will suggest below that the state, an unconscious entity, can have such obligations, although these obligations will be derivative.

41 This position is different to that of Taylor (1970, pp. 125-128). Though Taylor holds good to come into the world with sentient beings, he defines good as that which meets the needs of these beings (he does not speak of actual properties). This is similar to the form of goodness that I will discuss in the next paragraph.
exist, this would not make a tree good (in the sense that it genuinely contained such a trope). It may be true that a goodness trope supervenes on both the person and the tree, but this means that it would only apply to the conjunction of the two (or at least to those tropes of each on which it supervened) and not to the individual parts, although this is likely beside the point as we tend not to mean this when we talk of natural objects in the world being good. The central point is that this argument suggests that non-conscious objects in the world cannot, by themselves at least, contain value properties even if this world is populated by people (though they may have them in conjunction with mental entities, or have a derivative worth due to some relation with such entities).

In truth, when it comes to many of the things we speak of as being good, not only do these probably not contain a goodness trope, but our comments should not be taken as suggesting that they do. Consider the case of food. Not only, I contend, does a good meal not contain a goodness trope (in this case I think that good can be reduced to something like ‘I approve of’), but a piece of fruit would not contain such a trope even if it may save us from dying of starvation (arguably, it may participate in a good situation). Nonetheless, it may be true to speak of the fruit as being a good thing, in the sense that it brings about something that is genuinely good (in this case, the continued existence of the starving person). This is an example of what was discussed in section A2.2, when it was suggested that a predicate can be true even in the absence of a corresponding property. (As an aside, I don’t think that, in a world of tropes, an apple can even be good qua apple, or a good example of an apple. This is because the individual comes before the class. If we were dealing with Platonic Forms then we could say that one apple is a better example of appleness than another is because it is a clearer reflection of the relevant Form. Something like this may also be arguable in the case of immanent universals. In the case of tropes, the only reason that the apples are of the same class to begin with is because their tropes are similar enough – there is no independent standard according to which each instance can be judged).

A state of nature almost inevitably has some unappealing aspects, and this is why we no longer live in such a condition, having instead adopted a formalised society or state. Locke referred to these aspects as ‘inconveniences’. In the case of the view here presented the largest inconvenience likely involves supererogation and the lack of moral
compulsion to perform good actions (we saw that there might be a limited number of positive obligations). Consider the following scenarios. 1) State-of-nature man is walking along the beach and sees a young child drowning. It is well within his power to save the child, and at little inconvenience to himself. 2) State-of-nature family are aware that another family is starving from lack of food. The first family has more than enough food, and could well afford to give some of this away without suffering any deprivation themselves. What's more, the amount they could spare would be of material benefit to the starving family. 3) State-of-nature man witnesses the prelude to a robbery. He sees a thief sneak up on an unsuspecting person, who will be both robbed and violently assaulted. The mere utterance of the word 'boo' will suffice to deter the thief. What of these scenarios? At least the first (and probably also the second) account that I gave of positive obligations suggests that in none of them is our state-of-nature protagonist or family under any obligation to help out, either by saving the drowning child, feeding the starving family, or deterring the would-be thief (the reason for this should have been made clear in D6). This is certainly unpalatable, but unpalatable is not the same thing as being wrong. Because the lives of those at risk are valuable, it is nonetheless objectively good for a state of nature person to help out someone in need (their actions can increase the number of goodness tropes), but this is not the same thing as such behaviour being obligatory. Note also that these inconveniences can be remedied in a state, of which more later.

Nonetheless, as was explained in previous sections, regardless of whether or not individuals in the state of nature are naturally obligated to perform few or no positive acts, it is easy to explain how they can be under an obligation not to perform certain actions. Take the case of the robbery mentioned above. In this scenario, the action of the thief likely has the prescriptive trope not-to-be-doneness associated with it, so not only is the outcome of the robbery bad, but its performance was wrong. We will give further consideration to this point below.

A major issue of contention is whether or not individuals can own property in the state of nature. Philosophical accounts differ on this point, as do the intuitions of non-philosophers. My strong intuition is that they can, although I do not think that this is a problem that is resolved by trope theory. Nonetheless, I intend to present a trope-based
account of ownership. As a starting point, I will adopt Locke's 'labour mixing' argument. Writes Locke (1967, pp. 305-306),

Though the Earth, and all inferior Creatures be common to all Men, yet every Man has a Property in his own Person. This no Body has any Right to but himself. The Labour of his Body, and the Work of his hands, we may say, are properly his. Whatsoever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his Labour with, and joyned to it something that is his own, and thereby makes it his Property. It being by him removed from the common State Nature placed it in, it hath by this labour something annexed to it, that excludes the common right of other Men. For this Labour being the unquestionable Property of the Labourer, no Man but he can have a right to what that is once joyned to, at least where there is enough, and as good left in common for others.

There are clear differences between my view and Locke's. I am not assuming that the universe was created by a God, and I thus reject the idea that the starting point is the earth being owned in common by all people (my starting point will be one of worldwide terra nullius). The notion of inferior creatures being under the natural dominion of mankind is also problematic, given that, on my approach, their mental capabilities may qualify them for moral concern. Further, there are Locke's caveats about there being "enough, and as good" remaining for other people, and the notion that it is a violation of the laws of nature to allow items to spoil or otherwise go to waste. These will find no equivalent on my account. Nevertheless, there is plenty that can be taken from Locke, as will now be seen.

With Locke, I believe that everybody has "Property in his own Person" (though on my account, this would likely extend to more than just people). I even suggest that something akin to self-ownership is necessary if people are to have any practical claim to moral consideration. While I still argue that it is through consciousness or some other mental property that we are given value, I also argue that this is not a sufficient base for an ethical theory. Earlier on it was pointed out that if a trope supervenes on multiple base tropes, then it must apply to the sum of these, and not just to certain of those tropes (this was why being a fountain pen could not supervene on both the physical object and a person). The corollary of this is that if a value trope supervenes on certain base tropes
then it can apply only to those tropes. This means that if goodness supervenes on particular mental tropes then it applies only to them, and not also to the physical aspects of the individual with the mental activity. Self-ownership, an asymmetrical relation of a part to a whole, brings the body into the moral sphere. It is through it that the physical parts of ourselves are morally separated from the rest of the objects in the universe (rocks and chairs etc – those things without value).

It could be argued that self-ownership is not necessary, and that I am mistaken in thinking that the value tropes must supervene only on the mental. While the mental are necessary, it might be suggested, they are not sufficient – the body is important too. Bear in mind while considering this that there is a difference between causal importance and importance for supervenience. The debate here is over whether the physical are base properties for value. I do not dispute that the physical is causally important – if I lacked a physical self I am confident that I would not have a mental self (which would mean that there was nothing left to be valuable).

My response to this challenge is largely intuitive, but I would be surprised if the relevant intuition were not widely shared. It will be recalled that I have on several occasions suggested the possibly that spiritual beings are worthy of moral concern. It certainly seems to me that an entirely spiritual being, i.e. one with no physical parts, who had a high level of mental operation, would be inherently valuable (the inherent value would seem to me to be on par with that of a person with similar mental capacity). It also seems to me that it would be wrong, if we were Ghost Buster types, to kill said spiritual entity for no good reason (I am assuming that it is no way a malicious spirit). I stress that this is just my intuition, but if I am right and moral worth, in the case of spirits, results only from the mental, then it must result only from the mental in the case of beings which have both physical and mental components. For the purposes of value, the physical would be redundant, because the same value would result even if it were not there. With only the mental being fundamentally valuable, something else is required to tie the body to it. I thus conclude that a relation like self-ownership is necessary.

Again, I should stress that I do not know whether or not such spiritual beings are possible. I have sympathy with the thought that mental properties supervene on the physical, which suggests that, as a matter of fact, the physical is part of the causal chain
that produces the valuable, and may even be necessary for this reason. This does not
mean that the value of the individual is grounded in the presence of the physical tropes,
merely that it may be caused by them. In short, even if it turns out that there is no
possible world in which there exist disembodied spirits, this would not establish that my
argument that it is the mental that is valuable is wrong.

It might be thought that the line taken in the previous paragraphs causes
difficulties for my argument. The problem might be called that of multi-level
supervenience: My account now suggests that the valuable supervenes on the mental
which in turn supervenes on the physical, yet I have stressed that the valuable does not
supervene on the physical. Is this tenable? The answer here depends on whether
supervenience is a transitive relation, and this in turn depends on meaning, even more so
than is usual in philosophy. If A supervenes on B and B supervenes on C, then A is
certainly dependent on C, and from the fact that we have a C we can know that we have
an A. Yet we would also have an A so long as we had a B, even if a C was not necessary
for this (the same kind of supervening trope can supervene on more than one set of base
tropes). Further, though the supervening relationship closely links each of these tropes,
they are distinct entities, and it seems as though they can be treated separately even if
they cannot exist separately (this is true of just about every trope, supervening or not –
my weightedness cannot exist without my extendedness, for instance). So while we are in
murky waters, I am inclined to think that I can justly claim that the valuable supervenes
on the mental and not the physical, even if the mental itself necessarily supervenes on the
physical.

I am confident, then, that at least self-ownership is necessary. If this were not the
case, then our physical parts would not fall under the protection of that part of us that is
fundamentally valuable. But what of ownership more broadly? I think that introducing
self-ownership is an important development, as once we have established the need for
one kind of ownership it seems more plausible to introduce others. Remember that the
big debate is over whether ownership per se is a natural relation, or whether it is simply a
human invention. It will be recalled that Locke argued that our labour is also something
that we own, and that we can gain ownership of those things in the world that are held in
common by mixing this labour with them. I think that this is a useful approach. Indeed, it
makes sense to think that there are not many kinds of ownership relation, just many different things to which the mental can be related in this manner. On this account, while the terms will differ, the ownership relations between mind and body, and mind and labour, and mind and physical objects such as apples and chairs would be the same (i.e. the relations themselves would be terms in relations of exact similarity).

Something that needs to be considered is the effect that there being only one kind of ownership relation would have on the various kinds of harm people can be said to suffer. Ordinarily, we are inclined to think that bad as murder, slavery and theft are, nonetheless they are not equally bad. Theft would generally be regarded as the least serious of the three, and, although more open to dispute, there is probably widespread agreement that murder is the most serious. Is this still the case if it is the same type of relation being violated in each? It could be objected that the flaw of my approach is that it reduces the seriousness of murder to the same level as theft. Indeed, it probably defines murder as a form of theft, perhaps as the unauthorised removal of life. But this is just a matter of perspective, and the rejoinder could be made that it actually increases the seriousness of theft to that of murder, so that what is a lesser violation on certain theories becomes much more serious on my own.

It needs to be remembered that there is a difference between value and prescriptive properties. Strictly speaking, in the examples just mentioned we have been dealing with issues of prescriptivity – the obligation that one has not to violate an ownership relation by way of theft, slavery or murder (it will be remembered that, on the account presented in this thesis, technically speaking a negative obligation only comes into existence with the occurrence of the act that ought not be performed; see sections B1.2.2 and D6 for why this is not a problem). This obligation likely involves a not-to-be-doneeness trope supervening on any action that violates the ownership relation. But this need not mean that the value, or disvalue, associated with each is the same. So, given that mental life is the ultimate source of value, it seems plausible that murder is a matter of greater severity because it has a greater impact on the mental life (it snuffs it out), while
theft is likely only to cause the mental life some anguish, and perhaps not even that\textsuperscript{42}. Obligation need not increase or decrease in proportion with the seriousness of an act (it would be quite a quaint account of obligation that held this to be so), whereby one is only under a weak obligation not to perform a somewhat wrong act, but under a strong obligation not to perform one of cataclysmic severity. I contend that an obligation is an all or nothing thing, it either obtains or it does not obtain, it does not admit degrees.

Many people will find this account of obligation unsatisfactory, though, as it seems that we can have conflicting obligations and, if this is so, it seems that these obligations must have different weights in order for us to determine which one or ones we ought to meet. This is not too great a problem on my approach, where most obligations are of the negative sort — it is difficult to imagine that my negative obligations not to kill or steal could ever come into conflict. Aside from the limited cases of potential positive obligation discussed above, though, I also allow that individuals can incur additional, positive, obligations (such as when one has a child or makes a promise). There is more than one response to this. Perhaps we might say that the onus is on the person who takes on a positive obligation to ensure that he is able to meet it; even if he physically cannot meet all his obligations (perhaps because he foolishly agreed to something he should not have), this does not mean that these do not exist at full strength. (Putting obligation to the side, it is entirely plausible that a person could put himself in a situation where he no longer has any option but morally bad ones — though he has no non-bad options, now, it does not follow that whatever action he chooses is less bad because of this). Perhaps when one is stuck in such a situation, the best one can do is decide on a course of action based on the value of each possible outcome. But my main rejoinder is this: Even theories that allow for weighted obligation (presumably this the traditional account of obligation) will have trouble when it comes to conflicting obligations of the same weight. There is no easy answer available to these theories about what one should do in this circumstance. While this problem might arise more often on my theory, at a conceptual level, it is just as problematic for these other theories as it is for mine.

\textsuperscript{42} It has been suggested to me that in certain cases, such as when the tools of one’s trade are stolen, theft may result in an individual not being able to live his life to the full. If this is the case, then it would be more serious than regular theft, though precisely because of the effect it has on that individual’s mental life.
If, as I think has been established, ownership is a relation that naturally exists, and if labour is one of the things that is owned by individuals, then it makes sense that these would be able to be exchanged between people. This might involve the gifting of products, or the exchange of products or labour in return for goods or services or some agreed upon unit of exchange. In these scenarios, one trope-based ownership relation would cease, and another would come into existence. This suggests to me that contracts must be able to exist in the state of nature, and that these would be binding. In fact, they should be just as absolute as the ownership relations that allow for them (we have seen that these relations must be absolute, because it is ownership relations that provide us with self-ownership and, presumably, our right to life).

By using the term 'absolute' in respect to ownership relations, I mean to imply that the claim to ownership cannot be overridden by competing considerations, not that an owner cannot willingly part with his or her belongings. This argument against competing considerations is likely to be found counterintuitive. It would mean, for example, that a starving man, with no other potential source of food, could not steal an apple from someone else's tree. I have two points to make here. Firstly, one may think that, except where explicitly stated otherwise, it is not unreasonable for the starving individual to take an apple, given that almost all apple-owners are likely to consent if they knew about the situation any way (we often have to make assumptions about what other people would allow when we act in daily life). Secondly, and assuming that the apple taking is expressly forbidden, taking it would indeed be morally impermissible, and this is unfortunate. It is a clear negative of the state of nature. It is also one of the things that we can remedy in the state, of which more below.

There are two significant consequences of our granting state-of-nature-man the capacity to enter into binding contracts. The first is that we have established the method by which the social contract can be entered into. If people did not have the power to enter into binding contracts then, essentially, a justified state is off the cards. The second consequence is that though, in the state of nature, individuals may not be under any automatic obligation to perform positive actions (such as an obligation to help another, as opposed to the negative obligation not to cause another harm), this is not to say that they
cannot incur such positive obligations. In the previous paragraph I used the examples of property exchange, but there is no reason why obligation cannot be broader than this. Contracts need not be formally entered into (by being signed or witnessed) in order to be binding; many promises, for example, could be viewed as a contracts. Thus, if a man promises to look after the child of another, then he acquires an obligation to do something he was not previously obligated to do. If he promises to clean another person’s house (perhaps in exchange for some food), then he acquires the obligation to do so. Remember that though the seriousness associated with the violation of various obligations may differ, the obligations themselves would be all or nothing.

The most important application of this, I believe, has to do with children. If it is deemed untenable to account for obligations to children by way of natural relations (in the same way that we above considered obligations to parents), I think it can successfully be argued that such obligations are incurred ones. If one engages in the process of creating a conscious entity, one that has needs that cannot be met without outside help, then one has taken on the obligation to help said conscious entity meet its needs. State-of-nature man could walk past a thousand starving but unrelated children and commit no wrong in not offering them any assistance, but he would break a binding obligation if he were to walk past his own child. Just as the act of procreation (in the case of conscious animals) gives away some of the procreator’s physical parts (more so in the case of the mother than the father), so may it be held to give away some degree of freedom.

**D8 The Remedy**

The next task is to deal with the remedy to the state of nature’s inconveniences. If I am right in arguing that an individual who owns things can enter into contracts and engage in sales or exchanges of property, then it makes sense that he can also enter into a social contract. In this scenario, instead of exchanging his belongings or his labour he would be exchanging his rights or freedoms (and presumably gaining in return something he regarded as being even more valuable). In this way may a state may be born. Alternatively, it makes sense that, in a method reminiscent of kingship, an individual may gain ownership over a tract of land and then allow other individuals to reside there on
condition that they follow his rules. This could also become a legitimate state. The fact that there may be more than one way in which a state may legitimately be created need not be a problem.

It should be stressed that even in respect to apparent similarities, there is quite a lot of difference between the state of nature and the state. I think that ownership is a prime example of this. While in the state of nature an individual would literally and absolutely own his own land, I suggest that this is not the case in the state (perhaps I should say ‘need not be the case in the state’, as different social contracts may be able to have different terms). People are often inclined to doubt that there is anything fundamental about ownership because of how ingrained the notion of ownership has become with our governmental institutions – the right to own property is allowed for by legislation and protected by the courts and police forces. Even freehold title, the closest individuals can get to fundamental land ownership, is granted and managed by the state. This fundamental state control is demonstrated by the fact that states have the authority to take land from private possession (even if the land is held under freehold title). If land ownership by individuals were fundamental, the sceptics might point out, then this would be an act of theft.

I suggest that such sceptics are right about one thing: The notion of ownership that exists in our state is state-generated. It has replaced what might be called the fundamental or genuine ownership that occurs in the state of nature, where there exists an ownership relation between a person, or, more specifically, a person’s mental parts, and an object in the world. Technically, this fundamental ownership still exists, it’s just that the owner of objects or land is not the individuals who compose the state but the state itself. This would either have involved a transfer at the signing of the social contract, or it would have been accepted when a free individual threw in his lot with that of a particular state. However it happened, the state then created its own institution of lesser, overrideable, ownership. So here is a cautionary note: Comments I have made about ownership in the state of nature do not automatically apply in the state.

Now we come to one of the main problems for a social contract theory, what might be called the ‘I didn’t sign up’ objection. At first glance, this objection certainly seems
weighty – if the state’s formation depends on the contract, and if it gets its authority from individuals willingly giving up their own rights, then it would seem that a state would have no authority over those individuals who had not given up their rights. In short, those individuals who had not signed up would still be in the state of nature (this would presumably include those people who had been born after the state was formed). Hobbes’ account (1651, p. 62) reflects this. He portrays the state of nature as being a case of “warre... of every man, against every man”, where, among other brutal elements, there is no moral prohibition on killing innocent people. Individuals, however, have to consent in order to come under the authority (and protection) of the sovereign, and if they choose not to do so they remain in their in original condition. But here is the catch. This original condition, as I have noted, is one of constant war, and the individual is liable to be killed. My response to the problem is neither as brutal, nor as respecting of an individual’s freedom, as is Hobbes’.

My solution is as follows. While the state may not have direct authority over the non-signed individual, the indirect authority it would have is overwhelming. The state, remember, has acquired moral authority over all the land on which that individual may tread (this happened as a result of the social contract – what was legitimately the property of individual’s has been granted to the state), and on all the services that that individual depends for his or her existence. In short, the state’s authority over its physical parts is as absolute as is an individual’s authority over his or her property in the state of nature. In the state of nature an individual mayn’t take possession of another’s property, or use it in a manner other than prescribed by the owner, even if the individual were starving or otherwise needed the item in question to survive. If this places great restrictions on what could be done by an ostensibly free individual (in either condition) then this is simply the sad reality.

Unless an object is given or exchanged, in order for an ownership relation to be formed, the object that is to be owned must first be unowned. In the labour-mixing example, I could gain ownership of an apple by plucking it from a tree – but only if it were not already owned by another. If another owns it, and he is not prepared to give up

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43 If the person who did not sign up legitimately owned property in the state of nature, then this remains the property of the individual. The state has no authority to take it. The situation is different for those born into the state, because there is no unowned property for them to take possession of.
his own claim (by way of exchange or gift), then I cannot take ownership of it. In the case of a state, a new born infant is surrounded by objects that already have a claim on them – the claim of the state. Taking Australia as an example, our state arguably has a claim on everything between Brisbane and Perth and Darwin and Melbourne, and more besides.

This solution to the ‘I didn’t sign up’ objection might be thought to have raised more problems than it solves. It might be suggested, for instance, that if a state has this much power then there is nothing to stop it from being absolutely tyrannical. We already know that many states have gained the physical power to institute tyranny, but do they have the moral power as well? The first thing to note is that I reject Hobbes’ answer to this problem. He had argued, in essence, that however bad a state may be, it would be preferable to the state of nature (for at least in the state the individual is physically protected). The state of nature presented in this thesis (reminiscent of that of Locke’s), while certainly having its fair share of inconveniences, was nonetheless a place in which right and wrong exist, even if they are not always adhered to.

I contend that there is one not insignificant limitation to a state’s behaviour, and this involves individual people. While the ownership of a block of land or a block of chocolate in a state need not be as fundamental as the ownership of the same items in the state of nature, I suggest that self-ownership is as fundamental. Further, I suggest that it is the very act of becoming conscious (which happens at some point in the development of most human and non-human animals) that creates the relation that is self-ownership. In effect, an ownership relation between the mother and the foetus ceases, and one between the foetus’ physical and mental parts comes into being. I also suggest that something similar to this happens any time we as individuals take on new physical matter. Take the example of a state where all food is fundamentally state-owned. Even here the physical parts of that food become a part of us, and are thus owned by us, once we have consumed it. From the fact that the state has absolute authority over that food before we consume it, with the result that it could be reclaimed even if an individual has a lesser claim to ownership (by way of legislation or convention), it does not follow that the state is entitled to take the weight of that food in flesh once it has been consumed.

It also seems reasonable to suggest that, just as a man and woman are under an obligation to support a child that they bring into existence (even if the child is an
‘accident’), so may the state be thought to have an obligation to allow all its citizens to have their basic needs fulfilled (otherwise we would have the queer situation in which the state was explicitly prohibited from actively killing someone – by way of firing squad, say – but would be perfectly within its rights to passively kill them, such as by depriving them of food or other necessities).

Beyond the above is the consideration that people form states for a reason. While it is true that the view mentioned would allow unappealing states to gain legitimate authority, it is also true that people can form states that aim (and, presumably, succeed) at achieving the best for all their citizens. It is simply the task of people to ensure that their states are the best possible (I don’t intend to hide the fact that, in some states, this might not be a realistic option), just as people in the state of nature may see it as their task to go above and beyond the call of duty in helping their neighbours.

The foregoing solution does two important things. Firstly, it preserves the authority of the state. Secondly, it offers some protection to individuals from the state. This is a combination that is found desirable by many theorists.

**D9 Legal System**

A potential criticism of my theory is that it sits poorly with certain much-cherished aspects of a typical Western legal system. In particular, my rejection of equality as a matter of primary concern might appear to be contrary to the notion that laws of a state ought be uniform in both coverage and enforcement. It is my intention in this section to argue that this highly valued aspect of many legal systems does not pose a problem for my theory, nor should my theory be regarded as a threat to it.

**D9.1 My View in Context**

It is important to start by placing my theory within a specific tradition within political philosophy. As should be clear from my arguments about tropes, I do not regard the human race as being a morally relevant entity, it is simply a natural class composed by
way of relations of similarity or exact resemblance, but which itself does not have any moral relevance (the only moral relevance it may have is the moral relevance of each of its individual members, which is likely one of the bases on which the class is formed). The entities that in the state of nature are entitled to moral consideration, I have held, are individual people\textsuperscript{44}, not people conceived of as a group of any sort (I argued that this is the necessary consequence of regarding mental life as the ultimate source of value). Social contract theories generally share this view of mine\textsuperscript{45}, whereby people who exist in a state of nature (a state where there are no formal rules for interaction among people, but where there may be moral rights and wrongs nonetheless) enter into a contract with one another to limit the rights of each in exchange for greater protection.

There are certainly many different forms that this, often theoretical, state of nature can take, and these range from Hobbes’ state of constant war, to Locke’s more peaceful version where one of the greatest problem to be averted was man being a judge in his own disputes, and to Rousseau’s rather too literal state where people lack the ability to speak, and exist in isolation for much of their lives. Importantly, according to some conceptions at least, people can still live in the presence of others in a state of nature, and they can (at least arguably) co-exist peacefully; the real role of a social contract is to set up a legal system which can provide laws and the means to enforce them.

In short, there are two great benefits that a contracted political society has over the state of nature. Firstly, people are no longer judges in their own disputes, and so the dangers posed by bias and overreaction are greatly minimised. Secondly, the ability exists to set rules in situations where the exact specification of those rules may not matter, but where the fact that they exist in one form or other does (a good example of this would be the side of the road on which people must drive; it doesn’t matter whether it is on the left or the right side, but it does matter that it is only one of these).

\textsuperscript{44} I also mentioned animals, etc., but these are not really relevant when it comes to legal systems.

\textsuperscript{45} There are exceptions. I’m told that this is the case with Lord Bolingbroke, who saw the social contract as being entered into by heads of households.
D9.2 The Defining Role of the Law

One role of the legal system is to define classes of actions that are sanctioned and those that are forbidden. While these classes may exist naturally, they need not. Even if they do, they need not be right or wrong in the state of nature. If they are wrong, though, then they are wrong collectively precisely because they are wrong individually, and not vice versa. Take the case of murder. The New Oxford English Dictionary defines murder as being “the unlawful premeditated killing of one human being by another”, and let us assume, for the sake of our argument, that this is also the legal definition, as defined by statute or common law. What the law has done is group together certain instances whose tropes may be related to each other, and has recorded how these will be responded to. In the case of murder, it is also likely to be naturally wrong by way of certain supervening moral tropes (as we supposed in our earlier examination of moral properties). It is important to note that there is no presumption that all murders be dealt with in the same fashion – we saw earlier (section B2.5) how there can be a contrast between strict deontology (where broad classes of action, such as lying, cheating or stealing, are forbidden, and equally broad classes required) and situation-specific deontology (where actions much more precisely defined may be right or wrong – it may be wrong to lie to win a card game, for example, but permissible to do so to avoid being robbed: ‘I don’t have any money…’). I do not think that trope theory itself clears up the dispute between these two approaches to deontology, but I am inclined to favour the situation-specific variety (note that it is perfectly universalisable). On the situation-specific approach, great differences in sentencing, which are often a response to differences between the cases, can easily be accommodated.

D9.3 Uniformity of Punishment

Closely related to the notion of uniformity of law is that of uniformity of punishment, and I wish now to consider some issues associated with this. It is a generally accepted principle that if two people commit crimes of such similarity, and in such circumstances, that no relevant difference can be found, then the two criminals should each receive an equivalent punishment, which may range from a $100 fine to life imprisonment. It is not
my aim here to dispute this principle, but I do wish to examine some errors that occur when this principle is applied.

If moral properties are tropes (or collections thereof), then any punishment that a person deserves should stem from the circumstances of that person’s crime, and should not simply be the result of comparison with the crimes of other people (note: I don’t claim that a comparison cannot be made, nor that it cannot be instructive to make such a comparison – merely that the justification should not stem from the similarity). We saw earlier how, moral properties being supervenient, and being very limited in application (they tend to apply only to a person and / or his circumstances), if two situations are essentially identical in respect to their non-moral properties, then they must also be identical in respect to their moral properties.

Let us consider an example. Imagine that there is a well-established precedent that says that a person who commits crime x in fashion y (which we shall take to be the more specific circumstances of the crime) should receive three years in gaol, even though the maximum sentence allowed for by legislation is 15 years. Now imagine that Joe commits crime x in fashion y and, furthermore, that upon sentencing the judge gives him 15 years, rather than three, despite the fact that no relevant difference between his case and the previous crimes has been identified. The issue now to be considered is whether this punishment was justified, and I contend that the questions one poses in making this judgment are indicative of one’s moral theory. There are two main approaches, which we shall now look at.

The first possibility is that an observer might ask: *Are there any relevant differences between these cases?* If the answer to this is yes, then Joe’s punishment might be justified. But we shall dictate that the answer is no, in which case many observers would deplore Joe’s punishment. A second type of observer might ask, however: *What are the circumstances of Joe’s case? What did he do? What is it reasonable to think that he deserves?* Note: This observer does not worry that Joe’s case is in every way similar to the other cases – he or she sees the key to Joe’s desert to lie within his own case.

Imagine now that an observer of the second type concludes that Joe’s sentence of fifteen years was deserved – is he or she now obligated to think that the other criminals should also have received 15 years? Probably: But the moral reason for this is not the
similarity between the cases, but the facts of each case taken individually. The conclusion that an observer of type two would draw from this is that just because every other criminal did not get what they deserved, it does not follow that Joe should also get off lightly (or fail to get what he deserves).

It might be pointed out that an observer of type one might also conclude that Joe’s punishment was justified, although I would expect that, if this were so, the observer would likely have to override a feeling that what was happening was unfair. It is important to note though that this feeling of unfairness is likely to be directed at Joe (poor chap!), while an observer of the second type would direct it at all the other crooks (they got off lightly!).

While the above argument for type two observation may seem stronger in the case of those actions that are wrong irrespective of the existence of the laws that forbid them, I do not think that it applies only in these cases. In the case of natural wrongs, we primarily judge a person according to the act’s natural wrongness (and less so in respect to its legal wrongness), and this is likely to be the focus of the type two questioner. In the case of wrongs that are only of the legal kind, the type two questioner may consider how an action actually rates under the law, rather than how particular judges have regarded the law as rating it\(^6\). This is somewhat complicated by the nature of common law (which, though it may be overridden by legislation, is held to be just as real), and by the fact that the social contract (if, indeed, this was what formed our state) may adopt equality of treatment as a clause (though this may not be demanded in the state of nature).

**D10 Conclusion**

A trope view that sees moral relevance to apply to individuals and not to groups can still lead to a political society along the lines of our own. This may occur by way of a social contract or by some other means. Once a state has been formed, actions can be prohibited through legislation that defines certain activities into groups, or deals with actions that are

\(^6\) It should be noted that in certain places, such as New South Wales, legislation actually requires consistency in sentencing. As no one is likely to justify this on the basis that consistency in punishment is more important than deserved punishment (they are likely to say that what is deserved should be determined and then consistently applied), I do not think that this poses a problem for my argument.
already natural classes, which are then to be dealt with by the law in a uniform manner. Just as actions that are permitted in the state of nature can be prohibited in the state, so too can actions that are naturally non-obligatory become required. Required actions may include paying taxes and helping those in need (in the state, an individual can be required to say 'boo' when he sees someone about to be robbed, and can be compelled to save a drowning child). It is important to be aware, however, that the uniformity of laws does not mean that punishment when they are transgressed is justified on the basis of a similarity with other cases. Rather, it is the circumstances of a particular case that either warrants or fails to warrant a certain punishment (regardless of whether other cases were appropriately resolved).

My view differs from many of the other accounts that also see the state of nature in a libertarian light. To many other theorists, the large dose of freedom that is owed to individuals in the state is a direct result of the natural freedom that these individuals possess (or would possess) in the state of nature. My view, in contrast, holds that the authority of the state is so strong precisely because it is a direct result of the freedom of individuals. If one's authority over oneself and one's property is (effectively) absolute, and one gives this authority away, then it follows that to which it is given (the state) has gained absolute authority. There were caveats, of course. Self-ownership survived entry into the state, and the state seems to have an obligation to allow people to survive (and, arguably, thrive). But there is no disguising the fact that this view leads to a strong state. The natural freedom of individuals, as I imagine it, may be comparable to that of theorists such as Nozick (1974), but my state need not be of his 'minimal' or 'night watchman' kind.

But it can be. From the fact that a state may have authority over all the property in its realm it does not follow that the state should exercise this authority. Indeed, one of the great benefits that comes from my trope view is that it means that we can run our state free from any of the delusions that can come from believing in the primacy of equality (remember, my view says that equality, though real, is derivative), or in the importance in the likes of 'humanity'. Equality especially can greatly influence how a state exercises its authority.
A first-order equality may very well demand strict equality in the way a state treats its citizens, not just in the sense that the state owes everyone a fair trial if they happen to be charged with a criminal offence, or in the sense that people with comparable income and family arrangements should be expected to pay roughly the same tax, but in the sense that everyone should be equal in all possible respects (income, work hours, etc). My state would have the authority to institute such an ultra-socialist system; what it would lack is a reason for doing so. While there is not the space to argue for this here, I think that is has been clearly established that states that are freer, especially economically, are the more successful in respect to things such as cohesion and productivity. Now, productivity or cohesion are not themselves valuable (I doubt that they have goodness tropes associated with them), although they can be derivatively valuable if (as it seems is the case) they help people to live their lives in comfort, and save them from dying young. The only way that a less free state could beat the derivative value of these setups is if there were actually a first-order value associated with their own arrangements. In the absence of a first-order equality, though, I do not think that this can be the case.

From the above, it might be thought that the society I am advocating is akin to a free market, liberal (essentially, a traditional utilitarian) one. This is true, but there are two notable differences. Firstly, my theory has a non-natural account of what is valuable. I don’t simply assert that happiness or utility is to be equated with goodness, or that a high level of production is good in itself. Secondly, the idea of a system that produces the best outcome (presumably, the most amount of goodness in the world) is only acceptable if it does not trample on any natural rights or disobey any not-to-be-doneeness tropes (this is why my theory is still, at heart, a deontological one). The scope for breaking these does decrease in the state, because the state involves individuals giving up may of their claims or rights (which would limit the actions of others in the state of nature), but there is always at least the limits provided by self-ownership. While my view recognises goodness, and acknowledges that some states of affairs, or possible states of affairs, are better than others, it does not obligate either individuals in the state of nature, or the state itself, once the state of nature has been left, to act in the way most productive of the good. But individuals and states are perfectly free to act in this way, if they so choose, and it
seems likely that one of the main motivations in forming a state would be to do so. When I come to cast my vote it will be to make the world a better place, although not necessarily, due to deontological constraints, the best possible place.

The next important benefit comes from dismissing humanity (at least from having moral relevance, if not from existence). As we saw above, it is nigh impossible to work out what such a property actually is, so it is hard to figure out what we are rejecting. But if, as I have argued, it is consciousness (or something associated with consciousness) that is valuable, then the removal of an allegedly morally relevant term that necessarily limits regard for non-humans must be a good thing (let ‘humanity’, as a morally relevant term, go the same way as the ‘Aryan race’). Spirits and space aliens would be equally (in a derivative sense) worthy of moral regard as a normal adult human, at least so long as their mental capacities were comparable (and so long as they were similarly inclined to obey moral laws). But because we are unlikely to encounter space aliens and spiritual entities, the main benefit comes to animals. Their consciousness would also be valuable, and they would also have self-ownership. The extent to which their lesser mental capacities impact on their moral claims is something that needs to be debated elsewhere, but I think, at least, and with caveats regarding the likes of self-defence, that we shouldn’t kill them. In short, animals would be much more deserving of moral regard than our current society gives them credit for.

As with all ethical and political theories, the one here presented has both appealing and unappealing aspects, though I think that the appealing aspects far outnumber the unappealing ones. More important than being appealing, though, when it comes to moral theories, is the need for them to be right. Now, rightness is not something that can be ascertained in one thesis. Nonetheless, I contend that the principles I have presented (such as the derivative nature of equality) are well founded in the underlying metaphysics (though, of course, one may very well reject this approach), and that the views of the state of nature and state here presented are consistent with (if not entailed by) these principles. To me, this looks like a good start.
BIBLIOGRAPHY


