



Applied Ethics

**The Past, Present and Future
of Applied Ethics**

Center for Applied Ethics and Philosophy
Hokkaido University

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Introduction

This collection of essays is the final summation of the Tenth International Conference on Applied Ethics held at Hokkaido University on October 28-30, 2016. The conference was organised by the Center for Applied Ethics and Philosophy, Graduate School of Letters, Hokkaido University (Sapporo, Japan).

The purpose of this collection is to bring together the wide-ranging papers on various fields of applied ethics presented at the conference.

It is our hope that this collection will contribute to further developments in research on applied ethics and promote our Center's mission, which is "to bridge the gap between theory and practice."

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Ethics in the Codification and Commodification of Indigenous Culture

Tom BRISLIN

Introduction

Scene 1: The opening of Disney's 2002 animation feature *Lilo & Stitch* features a song in Hawaiian: *He Mele No Lilo*. Although composed by Mark Keali'i Ho'omalua, and sung by the all-Hawaiian Kamehameha Schools Children's Chorus, it sparked controversy among Hawaiian cultural activists as it rewrote two *mele inoa*, sacred name chants honoring King Kalakaua and Queen Lili'uokalani, now re-dedicated to a cartoon character. As Hawaiian was not a written language, name and genealogical chants were central to native identity. Further disturbing the native practitioners, Disney copyrighted the song in what was seen as yet another appropriation of an Indigenous cultural form to Western commerce (Mantilla, 2011).

Maori activist Tina Ngata (2016) defines a continuing "colonial subversion of storytelling" in Disney's animated Polynesian origins tale *Moana*, and finds cold comfort, at best, in Disney's decision to withdraw its promotional Halloween costume for the character Maui in the face of multiple Polynesian protests of it as a disrespectful "skin suit."

Scene 2: Actor Rob Schneider, playing a Hawaiian character named Ula in *50 First Dates* (2004), speaks in a Spanish-inflected pidgin accent never heard in the islands, and in a painful parody of island culture, covers himself with banana and ti leaves to perform a hula never seen there. Although declarations of Indigenous Rights decry denigration of native cultures, the film, one Hawai'i reviewer wrote, "demonstrates that Hollywood is more than willing to resort to familiar perceptions of the Islands as places of lush natural beauty, populated (sparsely) by large, lazy people who sing, dance, play and eat but, oddly, don't work very much" (Tsai, 2004).

Scene 3: *Aloha* Director Cameron Crowe offered "a heart-felt apology to all who felt" the role of actress Emma Stone as a one-quarter Hawaiian and one-quarter Chinese Air Force Fighter Pilot "was an odd or misguided casting choice" (Variety, 2005). This apology followed sharp criticism over the title of the film, "Aloha," as a further cultural (mis)appropriation and perversion of the meaning of a Indigenous Hawaiian expression to meet a Western tourist and commercial definition. The criticism was particularly acute as the film's main characters and location were military related, and it was the U.S. military who backed the overthrow of the last monarch, Queen Lili'uokalani, the composer of the treasured song *Aloha 'Oe*.

Joining the critical chorus was Hawai'i Film Commissioner Donne Dawson who said the filmmakers should have sought permission as cultural protocol to use

the complexly rich expression as a title:

I think people are overemphasizing the word permission. It is simply out of courtesy and respect for the native people of this land to seek advice and counsel. They come to Hawai'i and they want to tell stories that pertain to us and I don't think there's anything wrong with making sure that they have as much information as possible to do the best possible job they can. ... So if you are getting permission to use a location, what is so different about getting permission to represent a people or an aspect of their culture? (Donnelly, 2015).

1. Codifying Culture

Along with ancestral lands, Indigenous Intellectual Property has been appropriated by colonizing dominant cultures and in most cases placed in "public domain," such as the *mele inoa*, allowing it to be commodified at the expense of, and at a loss to, the original authors. While filmmakers would go through extensive negotiations and payments for the rights to a piece of Western music as simple as *Happy Birthday*, they can freely pluck the Chamorro wedding song *Nobia Kahulu* without a single thought toward clearance or royalty. Because such songs, chants, dances, myths and legends were not in "fixed form," had no definitive single or group authorship, and were of indeterminate age, they were relegated to common ownership: What was yours is now ours.

Western law abrades Indigenous customs with the same force felt in the conflict of values between individualist v collectivist cultures. Maori filmmaker, author and philosopher Barry Barclay (2005) suggests in "Mana Tutura" that had a film crew documented Captain James Cook's 1769 landing on Aotearoa and his officers' freely walking into and poking around implements, clothing, and spiritual icons in private homes, it would be seen by Westerners as an important historic recording of discovery. However, Maori viewers would see such home invasions as evidence of unconscionable breaking and entering along with multiple other violations of tribal law and customs.

In a humorous take on the theme, Don Featherstone's 1986 Australian Broadcast Company mockumentary depicts a uniformed and armed troop of Aborigines landing and planting their flag at a riverside picnic of a white Australian group that they subsequently herd into reservations and ghettos and colonize. "What is the name of this place?" the officer in charge asks in a slow enunciation. "Bar-b-que area," the white "native" responds. "*Babakiueria!*" the leader declares. "I like it." The "documentary" is hosted by an aboriginal woman reporter who confesses, "I've always been fascinated with white people. The evidence of their culture is all around us. Their art (points to graffiti on a rock), their industry (points to an abandoned car by the riverside), and their way of life (a mound of trash)." The satirical film reversal of racial stereotypes was so effective it was used in police officer tolerance training.

Culture is not so easily codified. While contemporary law, led by the First Amendment, grants “the right to do,” filmmakers still need to consider what is the right **thing** to do, and what is the right way to do it. Media makers in Hawai‘i and on Guam are contemplating how to educate and encourage cultural knowledge and acknowledgement of cultural and creative practices as an integral, and perhaps contractual, part of the production process for offshore companies. Hawaiian Media Makers are exploring the development of a “Brown Book,” similar to the Maori guide for image-makers, and “Pathways and Protocols,” a handbook to filming among Aboriginal and Torres Strait Islander people of Australia.

2. Legal Frameworks: Culture Commodified

Numerous legal reviews have explored the issues surrounding the protection of Indigenous Intellectual (and other) Property Rights. Cultural preservation and activist groups have pointed to United Nations declarations, national laws, treaties, and agreements that define rights and relationships between and among Indigenous Peoples, tribal and government agencies. Some relationships have matured and produced model cooperation. Others have stalled, leaving issues unresolved and tempers simmering. Still others are nascent, searching for both models to follow and original courses to set, navigating traditional cultural expressions between the rocks of legal systems and the hard landings of capitalism and commerce.

Aotearoa’s Barry Barclay (2005) admits “there are no such specific Indigenous intellectual property rights in the man-made world of copyrightable items... Nevertheless, copyright is a powerful instrument, an intellectual treasure in its own right” (94). Conway-Jones (2005) finds Western copyright laws and regimes not only fail Indigenous cultures, they “promote ‘commodification of the culture, one of the many remnants of colonization,’ (739) and “economic and cultural oppression” (741).

The expression of traditional knowledge is dynamic and cannot be fixed in time, place or form and therefore, cannot be relegated to western structures or regulated by western property laws....(Indigenous) knowledge is not regarded as property subject to individual ownership (745)...Western intellectual property laws are instruments of commodification that draw traditional knowledge and cultural heritage into the capitalist model to exercise dominion, control, and subsequent public distribution over knowledge that indigenous peoples never intended to be dominated and distributed by such a regime (752).

The absorption of indigenous cultures, such as Hawaiian, Samoan, and Chamorro, has created a “catch-22” Conway-Jones describes as “either forced to commodify their collective culture and thereby perhaps misappropriate its position in the Indigenous community or renounce commodification, thus allowing other non-indigenous peoples to appropriate indigenous cultural traditions” (760).

That “catch-22” played out in a Hawai‘i court barely a year later. Mantilla (2011) notes, “Currently Hawaiian state law does not offer much protection to Native Hawaiians. In fact, recent case law suggests the opposite,” in reference to a case that upheld the copyright of a non-Hawaiian photographer to a depiction of a traditional hula pose. A native Hawaiian artist used the pose in a stained glass creation. The ruling was based on technical comparisons of the two figures in the two images, but in saying that hula in itself could not be copyrighted, placed it in the public domain, out of any control of its representation by traditional cultural practitioners of this traditional cultural practice.

The case spurred anger among some Native Hawaiians, who accused (the photographer) of trying to copyright a well-known hula pose. They also said the suit was part of a wide scale effort to trademark pieces of Hawaiian cultures. “The issue is not one painting. The issue is not one sculpture. The issue is who is he to own that pose?” said Wayne Panoke, executive director of the ‘Ilioulaokalani Coalition. “As far as I’m concerned, he’ll never own it” (Vorsino, 2007).

Although the Hawai‘i State Legislature adopted a 2004 resolution recognizing Native Hawaiian collective ownership of traditional knowledge, expressions and art forms and the inadequacy of “the current western intellectual property regime ... (which) often facilitates the theft, misuse and misappropriation of indigenous knowledge by researchers, authors, scientists ... universities, and others,” and included a requirement that any use of such cultural material, for example in a film, “must be reviewed for accuracy and appropriateness,” it has no force of law. Similar conditions on the use of indigenous intellectual property have been legally sanctioned within Native American tribes, but Native Hawaiians do not share any tribal status or sovereign relationship within U.S. law.

Hawai‘i, Guam, and the Commonwealth of the Northern Marianas, the home of Chamorro culture, also fall under the First Amendment constitutional umbrella that repels any restriction on any representation of any cultural group by filmmakers or other storytellers. The “multitude of voices” philosophy embraces inaccuracy and inauthenticity as closely as it does truth and wisdom.

Barclay (2005) was instrumental in establishing the rights of Maori tribes and other community groups to the future use of their images used in films deposited in the national film archive, the *mana tuturu* clause in the repository agreement. Barclay states it is the expiration of copyrights that worries him more than the copyright itself: “‘Out of copyright’ hangs like a death sentence over the Indigenous image” (109). Once expired, the images become public domain, open to any use. The western view of copyright holds that the value of images decreases over time and therefore the need for protection recedes. In Maori culture, he explains, images of elders and their lives increase vastly in value with the passage of time:

...With a *pakeha* (western) film, the film’s principal period of glory is at the beginning of its life, at its premieres, during its main run,

perhaps during a second run. After that ... the gradient of vitality tracks downwards...a benign half-life in the reserve stocks of the national memory...But with Maori work...the gradient tracks upwards...The early life of the image-document might be rather modest, but the document increases in vigour and relevance as each decade goes by (102).

Conway-Jones calls for the need to develop a Native Hawaiian intellectual property law *sui generis* – unique and from the perspectives of cultural tradition (2005), or to indigenize western copyright law through a philosophy of legal pluralism (2009): “The western approach to globalization is keen to recognize culture as an object rather than as a living, evolving organ to be shielded from exploitation” (208).

To date there has been no answer to the call.

3. Cultural Responses

A coalition of Native Hawaiian groups gathered in 2003 to discuss protection of traditional knowledge and property rights in the face of advanced genetic testing of native plants and of Native Hawaiians themselves. The concerns broadened into protection of artistic expressions and oral traditions. The result was the Paoakalani Declaration, which set forth a definition of traditional knowledge and art forms as well as a statement of rights to create laws and protocols to protect them, and insist that any use of them be made “in full consultation with Kanaka Maoli (Native Hawaiians)” (7). The declaration was the basis of a state legislative resolution a year later and like the resolution, expressed a spirit of cultural protection, but without any power to enforce. The declaration has been cited in subsequent controversies over genetic modification of crops, and biological research. Despite its potential as a basis for rational criticism, it has not come up, in recent discussions of film misrepresentations of Hawaiian culture, from the revival of the CBS series “Hawai‘i 5-O” to Crowe’s critically ill-received “Aloha.”

The Paoakalani Declaration is given some additional weight by the United Nations Declaration on the Rights of Indigenous Peoples (2007), in which Article 31 states:

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions (11).

The United States, Canada, Australia, and New Zealand, four countries with the largest resident indigenous populations, balked at signing the declaration, although they endorsed it in varying degrees as an expression of worthy ideals.

The Hawaiian Media Makers Conference in 2014 wrestled with the charge of the Paoakalani Declaration to develop strategies to protect cultural expression and representation in film against a western backdrop of copyright and First Amendment law. The only resolution was a commitment to continue the effort, but along the way voices representing multiple Pacific cultures were heard in spirited discussions of what constitutes a Pacific Story, a Native Film, and whether greater protection was needed for indigenous film, or for indigenous culture represented in non-indigenous films.

The Hawaiian Media Makers are particularly sensitive to the latter, as the film industry is sufficiently developed in the Islands to attract several major outside productions a year, and to produce numerous local films, albeit mostly shorts. Guam, on the other hand, has no developed infrastructure or regulatory agencies for film production, although Japanese, Korean, and other production companies regularly film commercials or tropics-set episodes of television series there. It's a sort of professional "guerilla filmmaking" environment without regulation or oversight. Chamorro filmmaking brothers Kel and Don Muna began the Guam International Film Festival in 2011 to encourage the production of local films by providing a prestige venue, and showcase the Island to Asian and Pacific professional filmmakers as a shooting site, while building a "film culture" among islanders beyond the standard multi-plex fare. They would like to build the film industry infrastructure, but also have a healthy wariness for the potential of co-option and cultural misrepresentation, which has marked the short history of made-in-Guam features by outsiders.

4. Cultural Models & Protocols

The 2005 Australian "outback western" *The Proposition* begins with an apology:

Members of the Aboriginal and Torres Strait Islander communities are advised that this film contains images which may be offensive to indigenous people. It includes historical photographs of people now deceased.

The Australian edition of the DVD includes a short, *Managing Cultural Heritage of a Major Feature Film Shoot*, introducing Pearl Eatts, the Indigenous Coordinator for the film. Eatts explains her role on the set as consulting with director John Hillcoat, as well as the producer, location manager, and others on both historical and contemporary relations between Outback settlers and Aboriginals, oversees the impact of shooting on the local environment, and perhaps most importantly, advising on the often hidden history of many of the film's locations. In one instance she explains that in the settlers' viewpoint, one particular cliffside

site is a picnic spot. To Aborigines, however, it is both a sacred site of ceremonial worship, and the site where black Aborigines were massacred by white Australians who force-marched them over the edge onto the rocks below. Although it would be a picturesque scene for western viewers, it would be offensive to the Indigenous Aborigines if used in the film. "It's a big country," Eatts says. "There's a lot of other places to film." Hillcoat and the film company agreed. They moved on (Hillcoat, 2005).

Cultural consultancy is among the most popular recommendations for filmmakers to pursue when they are seeking Indigenous locales, stories, characters, and cultural representations. In Queensland it is written into the 2003 Aboriginal Cultural Heritage Act:

All persons undertaking land use activities in Queensland, have a duty of care to take all reasonable and practicable measures to ensure they do not harm Aboriginal cultural heritage. The legislation requires direct negotiation between traditional owners and land users to address cultural heritage matters ("Managing Cultural Heritage," 2005).

Director Rolf de Heer, following his 2002 film *The Tracker*, worked with the film's co-star David Gulpilil, perhaps the best known Aboriginal actor (*Walkabout*, *Rabbit-Proof Fence*) to develop a film to be co-written, co-produced, and co-directed with the Yolngu people of Ramingining, inspired by the mid-1930s photos of anthropologist Donald Thompson of the Yolngu now-lost practice of goose egg hunting in bark canoes. The making of *Ten Canoes* is captured in the documentary *The Balanda and the Bark Canoes* (de Heer and Reynolds, 2006) where we learn that rather than cultural appropriation of aboriginal traditional knowledge, the film provided the Yolngu the opportunity to "reappropriate" forgotten knowledge through relearning the artistry and craft of canoe building. The documentary reveals that all was not brightness and multicultural epiphanies on the shoot. Intra-tribal as well as inter-cultural tempers often ran short, and communication often ran aground. The end result was rewarding for both sides, and presented the audience with a rich and textured glimpse into a culture that was accurate, and authentic.

To encourage such intercultural cooperation across the filmmaking industry starting from the earliest stages of pre-production, Screen Australia (formerly the Australian Film Commission) published "Pathways & Protocols: A filmmaker's guide to working with Indigenous people, culture and concepts." Protocols, author Terri Janke (2009) notes, "are not in themselves legally binding, but over time they establish practices that can be relied on as industry standards" (10). Included in the protocols are statements that set the ownership and protection of Indigenous cultural and intellectual property rights with the Aborigines and Torres Strait Islanders, and that they have the right to:

- be recognized as the primary guardians and interpreters of their cultures
- authorize or refuse to authorize the commercial use of Indigenous cultural and intellectual property according to Indigenous customary laws
- maintain the secrecy of Indigenous knowledge and other cultural practices

- be given full and proper attribution for sharing their heritage
- control the recording of cultural customs and expressions, and the particular language which may be intrinsic to cultural identity, knowledge, skill and teaching of culture (11-12).

The book gives numerous examples of potential cultural representation and assists in the implementation of the protocols through extensive sets of checklists beginning with initial research, project and script development through editing and post-production. A sample checklist (24-25):

4-1 Checklist for initial research and project development

Preliminary

- Have you considered why you are making the film or program, why you are using Indigenous material, and the perspective you bring to it?
- Have you sought advice on the cultural issues that need to be addressed through consultation?

Consultation

- Has consultation with relevant Indigenous individuals and communities been initiated?

Representation

- How will your work affect the Indigenous group it is based on?
- Does it empower Indigenous people?
- Does it depict or expose confidential, personal and/or sensitive material?
- Does it reinforce negative stereotypes?
- Have you researched your characters?
- Is the use of language appropriate?

Cultural integrity

- Are you proposing to adapt or alter traditional knowledge, communally owned material or cultural heritage material in any way? If so, have you explained the adaptation you propose, given people time to comment, and obtained consent?
- Will the individual or community who is the subject of the work have an opportunity to see the work prior to public dissemination? Have their suggestions been incorporated?

Authenticity

- Have you established that any Indigenous cultural and intellectual property in your film is used in the correct cultural context?
- Have you established whether there are any restrictions on the material and the exact meaning of any words in the language if unsure?
- Do you use heritage material such as imagery, music and language with proper regard to gender, clan affiliations and cultural restrictions?

Sensitive or sacred material

- Is the material culturally sensitive? Is it secret or sacred? Is it a women's or men's area?
- Are there any themes that refer to sacred or secret material that may need consultation with Indigenous people?
- Are there contemporary sensitive issues involved?
- If so, how should it be handled? How do you plan to involve the relevant Indigenous specialist agencies in the development of the film project?
- Have you spoken to elders or other relevant Indigenous people from the relevant area to identify any sensitivities and sacred or religious issues that might prevent depiction of the image, story or event?

Similar in concept to “Pathways and Protocols” is “The Brown Book: Maori in Screen Production,” published in 2013 by Nga Aho Whakaari: Association of Maori in Screen Production as an e-book. It contains a history of Maori film, paying tribute to pioneering filmmakers who opened doors for a current generation of creative artists. As an e-book, it is able to incorporate multiple photos and video as well as text in telling its story, and explaining its protocols, *Tikanga Maori*.

Although not as detailed in defining the points of potential cultural conflict as “Pathways and Protocols,” the “Brown Book” establishes a broad set of ground rules for intercultural interaction well before the scope of a film is introduced. As Maori director and screenwriter Himeona Grace explained, “You have to have twenty cups of tea with someone before you can trust them” (2014). The book strongly urges filmmakers to share images with the community from which they are captured:

We would urge production companies, especially when interviewing Māori elders and experts, to be sensitive to the fact that they are being gifted with sometimes ancient knowledge and traditions. Without trying to interfere with the intellectual property rights of producers, we suggest that production companies would be making a useful and powerful contribution to those communities if they made available the footage that they shot in those communities. Interviews with *kaumātua* and *kuia* (male and female elders), or shots of the landscape, which for Māori is the personification of their ancestors, are *taonga* (precious objects) for those communities. That is, *maunga* (mountains), *whenua* (land) and *moana* (sea) are named after ancestors or important events in tribal history, and are the physical representation of those people and events. Therefore, images and reproductions of these sites hold spiritual and cultural significance for those communities, and any footage taken of them becomes a part of the tribal repository of knowledge, *mātauranga Māori* (Henry and Wikaire, 2013, 46).

The Hawaiian Media Makers conference looked to the “Brown Book” as a basis for establishing protocols for filming in Hawai‘i. The State Film Office,

a sponsor of the conference, publishes an annual “Hawai‘i Production Index.” Primarily a source of information for rental and contracting technical support for films, the Production Index contains a limited section titled “Guidelines for Filming in Sensitive Locations.” It advises filmmakers to be aware of environmental as well as cultural concerns and encourages the use of cultural consultants, including the office itself:

The Hawai‘i Film Office will help productions understand and navigate the cultural and environmental sensitivities that make Hawai‘i such a special place. When choosing a location, it’s easy to get caught up in the beauty of the place or how perfectly it fits within the script. Producers and location managers should be aware though, that depending on the location, there *may* be cultural or environmental sensitivities to consider:

- Certain public lands are adjacent to communities who have concerns about using the area for filming.
- Some areas are nature preserves, wildlife sanctuaries or home to endangered marine life.
- Ancient burial sites are not uncommon, especially in undeveloped areas.
- Many forested areas shroud ancient *lo‘i kalo* (taro terraces), *heiau* (religious temple) or other archaeological sites (18-20).

5. Conclusion: Images for the Future

The quest for a set of Hawai‘i-based protocols for filmmaking aligned with the Paoakalani Declaration and not negated by U.S. copyright and constitutional law continues through the Hawaiian Media Makers group, Pacific Islanders in Communication, the state Film Office, University of Hawai‘i, and other stakeholders. Examining best practices developed in other Indigenous Pacific cultures, it will be a combination of educational and aspirational approaches. Budget-minded filmmakers will lean toward voluntary adoption of protocols when they not only understand their cultural importance, but also realize they can constitute an enhancement of story and production. The goal for Guam, with its nascent filmmaking culture and industry, are similar: How do you convert cultural protocols into a “value-added” to attract the global filmmaking community?

Since Hawai‘i, like other sought-after locations, offers economic incentives in the form of tax breaks for film production, it could write an acknowledgement of protocols and a requirement to retain a cultural consultant and/or to complete an extensive checklist into the tax credit agreement and the permitting process for location shooting on public and private lands.

The protocols themselves could be defined and explained in an expanded Production Index, as well as in a demonstration video (perhaps produced by student filmmakers) made available to production teams as they consider Island-based stories and locations. A class or workshop outlining key cultural concerns and

protocols could be offered on a regular basis through the university as a cooperative outreach program. Cooperating production companies could also be rewarded by being featured for their cultural sensitivity in future editions of the multi-media Production/Protocol Index, perhaps through a short behind-the-scenes documentary shot by student interns available for public as well as industry viewing.

The recognition of Indigenous cultural rights resonates with both the ethical and political principles of the right of self-determination, as well as a practical application of the Harm Principle and the Social Authority Principle – the right of society to protect itself from actions deleterious to its interests. This relates to both ownership of intellectual property, and some degree of control over how the culture is represented as a celebration not only of the culture itself, but also of the diversity of global cultures.

Absent access to the knowledge, or acquiescing in the misuse and misappropriation of that knowledge, Indigenous identities become hostage to external perceptions and influences that often relegate Indigenous Peoples to subordinate or nonexistent status as the fringes of the global community (Conway-Jones, 2009, 210).

While political sovereignty is argued in more rarified arenas, filmmakers have the power to recognize “rhetorical sovereignty: a people’s right to determine their own communicative needs and desires, to decide for themselves the goals, modes, style and languages of public discourse” (Siebert, 2006, 536).

Our storytelling traditions are complex, interconnected and inextricably linked to our political, spiritual, economic and environmental realities. Our storytelling is a part of a broader knowledge system that underpins our relationships to the world around us, and informs our value systems in relation to that environment (Ngata, 2016).

The Indigenous Peoples of the Pacific are inherent storytellers. When they intersect and interact with the film industry, it is the bringing together of tremendous story-telling cultures. Each has its own protocols and customary ways. They need not be defined by conflict to have a good story ending.

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The Good Life and the Moral Demands of Poverty

Kiki BERK

1. Singer's Extreme View

Peter Singer famously argues that we should be doing a lot more than we are in fact doing to alleviate the suffering and death that result from extreme poverty.¹ A crucial premise of his argument is the following principle: “If it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, [then] we ought, morally, to do it” (Singer 1972, 231). Singer’s principle is extremely demanding, for it requires “reducing ourselves to the level of marginal utility” (Singer 1972, 241). In other words, this principle implies that I ought to give to charity until I reach, as Singer puts it, “the level at which, by giving more, I would cause as much suffering to myself or my dependents as I would relieve by my gift. This would mean, of course, that one would reduce oneself to very near the material circumstances of [someone living in extreme poverty]” (Singer 1972, 241). So, for example, according to Singer’s principle, I am not allowed to pay for my child’s routine dental cleaning if I can save a starving child’s life with this money—for tooth decay is far less bad than death by starvation. This is, to say the least, a radical position. Not only is living this way extremely difficult, but many philosophers think that morality simply cannot demand this much of us.

Singer acknowledges that his principle is extremely demanding. And even though he maintains its truth, he goes on to propose a “moderate” version that he thinks will be easier for people to accept. Singer’s moderate principle states: “if it is in our power to prevent something very bad from happening, without thereby sacrificing anything morally significant, [then] we ought, morally, to do it” (Singer 1972, 231). Unlike the “strong” principle, this principle does not require reducing ourselves to the level of marginal utility, for doing so would involve sacrificing things that are morally significant. This raises an interesting but difficult question: which things are “morally significant”? Unfortunately, Singer doesn’t tell us. One straightforward possibility, however, is that “morally significant things” are simply those things, whatever they are, that either make up or are necessary for leading a healthy and (relatively) pain-free life. Let’s call these “strong moral goods.” Plausible candidates include: health, safety, freedom from pain, and freedom from fear.² On this interpretation, Singer’s moderate principle does not forbid me from

1 See, for example, “Famine, Affluence, and Morality” (Singer 1972), *The Life You Can Save* (Singer 2009), and *The Most Good You Can Do* (Singer 2015).

2 The nature of strong moral goods is an interesting issue. Are they intrinsic goods, instrumental goods, or goods of some other kind? If they are instrumental goods, then do they aim at bringing about intrinsically good things, or only at preventing or removing intrinsically bad

providing strong moral goods for myself or for my dependents if there are people in the world suffering and dying from extreme poverty whom I could save by forgoing these goods. Thus, according to this principle, I am allowed to pay for my child's routine dental cleaning even if I can save a starving child's life with this money, for my child's dental health is a strong moral good. Nevertheless, Singer's moderate principle is still pretty radical, as Singer himself admits; for even though it allows me to pay for my child's routine dental cleaning, it does not allow me to pay for her piano lessons, birthday presents, or college tuition. In short, Singer's moderate principle, while allowing me to provide for myself and for my dependents a *healthy and relatively pain-free* life, does not allow me to provide for us a *good* life.³

Many people find this consequence of Singer's moderate principle hard to accept. First, as mentioned earlier, some philosophers argue that morality cannot demand too much of us. Since Singer's moderate principle, like his strong one, is extremely demanding, it cannot be correct. Second, some people think that we have a special obligation to ourselves and to our dependents which Singer's moderate principle fails to recognize. More specifically, they argue that we have an obligation to provide for ourselves and for those who depend on us a *good life*. Since a good life requires more than just strong moral goods, Singer's moderate principle is inconsistent with this special obligation.

I, for one, do not find the first of these two objections very convincing. Who said that being good had to be easy? The second objection, however, has at least some initial plausibility. Many of us think that we have a special obligation to ourselves and to those who depend on us. But why think that this obligation (if it exists) is to provide *the good life*? For one thing, the good life has been a central concept in philosophy since its beginnings in ancient Greece (e.g., Aristotle's *Nicomachean Ethics*), and most philosophers throughout history have considered the pursuit of a "life worth living" to be morally praiseworthy. For another thing, the good life is what parents want for their children. Parents don't necessarily wish for their children the best possible life, an easy life, or even a pain-free life; but they do hope that their children's lives will be *good*. Therefore, it is not entirely arbitrary to say that the special obligation we have (if we have one) is to provide a good life for ourselves and for those who depend on us.

There is a lot more to say both for and against the "special obligation objection" to Singer's argument. In the rest of this paper, however, I want to address a different issue—namely, what we are committed to if we take this objection seriously. How demanding is the view according to which we have a special obligation to provide for ourselves and for those who depend on us a good life

(evil) things? If they are goods of some other kind, then in virtue of what are they "goods"? Unfortunately, I do not have answers to these questions. I rely here, and throughout this paper, on an intuitive idea of what strong moral goods are. I think this intuitive understanding is sufficient for my purposes.

3 So long as there are people in the world suffering and dying whom I could save by forgoing goods necessary for a good life but not for a healthy and relatively pain-free life. This qualification will sometimes be left implicit in what follows.

before we help the poor? Is this view extremely demanding, like the ones generated by Singer's strong and moderate principles? I think that it is. Even if we weaken Singer's principle to the point where we are obligated to help those in extreme poverty only after we've achieved for ourselves a good life, we must still radically change our spending habits and, by consequence, the way we live our lives.

The rest of this paper has two parts. In the first, I explicate a view of our obligations to the poor that takes seriously the objection that we have a special obligation to provide for ourselves a good life before doing anything to help those living in extreme poverty. I call this the "Good Life View." In the second part of the paper, I compare this view with two other moderate views: one by Richard Miller, and the other by Garrett Cullity. I argue that these views overlook some things that the Good Life View does not, which makes the Good Life View more plausible than they are.

2. The Good Life View

According to the Good Life View, we are morally obligated to prevent something very bad from happening (like the suffering and death that result from extreme poverty) unless doing so would thereby prevent us, or those who depend on us, from living a good life.⁴ What is a "good life"? Following contemporary value theory, I think that a good life is best understood in terms of *goods*: a good life is a life that contains certain kinds and amounts of goods.⁵ Clearly, a good life requires what I have called "strong moral goods"—e.g., health, safety, etc. But surely it requires other goods as well. Let's call these other goods, whatever they are, "weak moral goods." A good life, then, is simply a life that contains a sufficient amount of strong and weak moral goods.

Which goods are "weak moral goods"? Which goods are necessary, in addition to strong moral goods, for living a good life? Within contemporary value theory, there are competing answers to this question. According to hedonism, for example, the only weak moral good is happiness (or pleasure); according to the desire satisfaction theory, the only weak moral good is desire satisfaction.⁶ According to the objective list theory, by contrast, there are multiple weak moral goods—different ones according to different versions of the theory. The objective list

4 Who exactly counts as one's "dependents" is an open question. I think that Unger (1996) is probably right that it excludes one's friends and extended family.

5 In this paper I am using the term "value theory" as a synonym for "axiology." See Schroeder (2016).

6 Hedonism and the desire satisfaction theory are usually defined in terms of intrinsic goods: according to hedonism, the only intrinsic good is happiness; according to the desire satisfaction theory, the only intrinsic good is desire satisfaction. If a good life is a life full of intrinsic goods, and weak moral goods are those goods, whatever they are, that are necessary (in addition to strong moral goods) for living a good life, then these definitions are basically equivalent.

theory is, in my view, the most plausible account of well-being.⁷ Since defending this theory in general, let alone a specific version of it, is beyond the scope of this paper, I am going to simply assume in what follows that it is true. Moreover, for the sake of argument, I am going to assume that there are just four weak moral goods: happiness, knowledge, friendship, and achievement. However, I do not think that anything I say in the following hangs upon the truth of this particular theory. Everything I say should apply, *mutatis mutandis*, to any theory of well-being—whether it be an alternative version of the objective list theory or an alternative to the objective list theory altogether (e.g., hedonism).

Weak moral goods are, on my view, *intrinsic* goods—i.e., things that are good in themselves. Goods of this kind are commonly distinguished from *instrumental* goods—i.e., things that bring about intrinsic goods. Knowledge, according to my view, is an intrinsic good, since it is good in itself; a book, by contrast, is an instrumental good, since its goodness derives from the fact that it brings about an intrinsic good—in this case, knowledge. Goods of both kinds should be distinguished from “purchases.” A purchase is the *acquisition* of a good. Obviously, there are resources other than money that can be used to acquire goods (e.g., time, energy, property, etc.), but, for the sake of simplicity, I will restrict my discussion to monetary purchases.

According to the Good Life View, we are allowed to make purchases in order to acquire weak moral goods—i.e., those goods which, in addition to strong moral goods, make our lives worth living. Which sorts of purchases are *not* allowed according to this view? Which sorts of purchases does this view forbid? Let us call any such purchase a “luxury purchase.” By definition, then, luxury purchases are forbidden by the Good Life View (so long as there are very bad things I can prevent by forgoing these purchases).

Which purchases are luxury purchases? Clearly, one type of luxury purchase is a purchase aimed at acquiring a good that is *not* morally significant. Let’s call any such good a “luxury good.” A luxury good is a good that is neither a strong nor a weak moral good. Whether there are any luxury goods is unclear to me, but possible candidates include status, wealth, leisure, comfort, convenience, and ambition.⁸ The Good Life View forbids purchases aimed at acquiring such goods if there is something very bad that can be prevented by forgoing them.

Are purchases aimed at acquiring luxury goods the only purchases forbidden by the Good Life View? Are these the only type of “luxury purchase”? I don’t think so, as the following observations make clear. First, note that goods come in degrees. There are degrees of happiness, knowledge, friendship, and achievements. That is to say: we can be more or less happy, have more or less knowledge, have better or worse friendships, etc. Second, it seems reasonable to assume that, in order to live a good life, a person needs only a certain degree of each of these goods. In other words, there is a threshold for each good such that having more of that good makes

7 My favorites include Hurka (2011) and Kazez (2007).

8 One interesting question is whether luxury goods, if there are any, are intrinsic goods, instrumental goods, or goods of some other kind. I do not know.

your life *better* but isn't necessary for living a *good* life. For simplicity's sake, let's assume that we can represent the degrees of each good on a scale from 0-10, where "0" is none of that good and "10" is as much of that good as possible. Let's also assume that a person needs at least a 5/10 of each of the weak moral goods—but no more than that—in order to live a good life.⁹

These two observations reveal a second type of luxury purchase: namely, any purchase aimed at acquiring a moral good when the person making that purchase already has enough of that good for him or her to qualify as living a good life. Suppose, for example, that I am already a reasonably happy person—5/10 on the happiness scale. If I go on to purchase a sports car in an effort to increase my happiness to 6/10, then this would count as a luxury purchase. Similarly, if I already have a library card, a computer, an internet connection, some books, and a newspaper subscription, which bring me to 5/10 on the knowledge scale, then paying for a graduate degree on top of it all in order to increase my knowledge to a level of 8/10 would also count as a luxury purchase. In short, even though these purchases are aimed at acquiring weak moral goods, they still count as luxury purchases because I already have a sufficient amount of those goods.¹⁰

In addition to these two types of luxury purchases, there is a third: acquiring moral goods in a lavish way. Suppose, for example, that my friendships are not strong enough for me to qualify as having a good life—just 4/10, say—but that I could strengthen them, raising myself to 5/10 on the friendship scale, by spending more time with my closest friends. Suppose further that there are two ways I could do this: taking my friends out for cocktails or having them over to my apartment for tea—the latter of which would be far less expensive. Surely the former would count as a “luxury purchase,” even though it is aimed at a weak moral good and I do not already have enough of this good to qualify as having a good life. So, there's a third type of luxury purchase, namely one aimed at a moral good that is not the most cost efficient way of obtaining that kind and amount of good.

Based on the foregoing discussion, the core of the Good Life View can be stated as the following principle: If it is in our power to prevent something very bad from happening by forgoing a luxury purchase, then we ought, morally, to do it—where a luxury purchase is: (i) a purchase aimed at acquiring a non-moral (i.e., luxury) good; (ii) a purchase aimed at acquiring more of a good than is necessary for having a good life; or (iii) a purchase that isn't the most cost efficient way of acquiring a certain kind and amount of good.¹¹

9 Obviously, assigning numerical values to different amounts of weak moral goods is a gross oversimplification. Nevertheless, goods like knowledge and happiness *do* come in degrees, so it makes sense to talk about having “more” or “less” of them and even having “enough” of them to have a good life. This is all I need in order to make sense of the Good Life View.

10 How do I know how much of a certain good I need in order to have a good life? And how do I know whether or not I have enough of this good already? These are difficult questions. However, I do not think they have any bearing on the truth of the Good Life View.

11 It is important to note that the Good Life View does not presuppose consequentialism—the view (roughly) that an action is morally right if and only if it maximizes good consequences. In fact, the two views seems to be incompatible, insofar as the Good Life View allows us

Before going on to consider what sort of lifestyle this moderate principle commits us to, it is worth taking note of two things. First, what counts as a luxury purchase will depend, in part, on a person's *culture*. This is not because moral goods are relative to cultures; rather, it is because the means by which a person can acquire these goods varies from culture to culture. For example, one could argue that it is virtually impossible in some parts of the world today to live a good life without access to a computer and an internet connection, as these are all but indispensable in these cultures for the acquisition of knowledge, the maintenance of friendships, and the achievement of goals. The same can be said about having access to a car. However, it would be absurd to say that a computer, an internet connection, and a car are universal requirements for having a good life. People could lead perfectly good lives before any of these things were invented.

Second, what counts as a luxury purchase will depend, in part, on an individual's *personality*. This is because something counts as a luxury purchase if it gets a person more of a moral good than he or she needs in order to live a good life, and what it takes to reach the relevant threshold will vary from person to person. Mr. Happy, for example, who is naturally a 7/10 on the happiness scale, will have to spend less money than Mr. Sad, who is naturally a 3/10 on this scale, in order to achieve the degree of happiness necessary to have a good life. One might object that this is unfair for Mr. Happy. Shouldn't he be able to spend as much money on his own happiness as Mr. Sad is allowed to spend on his? I don't think so. Even if some people are morally permitted to make more purchases than others, everyone has an equal right to the same degree of moral goods (e.g., happiness, knowledge, etc.). In fact, one might argue that it is in fact Mr. Sad who has the short end of the stick, for even if he can spend more money than Mr. Happy on his own happiness, he is not allowed, according to the Good Life View, to spend enough to reach the level of happiness that Mr. Happy has naturally.¹²

Having acknowledged these two ways in which luxury goods are relative, let us finally address the main question of this paper: How demanding is the Good Life View? To what sort of lifestyle does this "moderate" view commit us? Obviously, because what counts as a luxury purchase depends upon an individual's culture and personality, there is no perfectly general answer to this question. Nevertheless, I think the following sketch applies to most people reading this paper: To start, the Good Life View allows us to obtain strong moral goods by spending money on such things as housing, utilities, food, health care, clothing, and furniture. Furthermore, it allows us to obtain certain amounts of weak moral goods by spending money on such things as transportation, communication, entertainment, hobbies, and vacations. More expensive purchases will be necessary for some people to achieve

to do things that don't maximize good consequences (e.g., provide the good life for myself rather than save someone from starving to death).

12 To a large degree, people's cultures and personalities are not under their control. To a small degree, however, they are. People can make *some* changes to their surroundings and personalities so that they need fewer purchases in order to achieve a good life. Are people thereby morally required to make these changes? I'm not sure.

a good life, given their personalities or interests, but most of us can achieve this with only basic items such as these. In fact, I think that most of us can achieve a good life without buying most of the things we currently buy. Even though it is undeniably necessary to spend money to have a good life, there are many cost efficient ways to obtain weak moral goods. You don't need the newest smart phone if you have a landline, and you don't need a luxury car if you have a reliable ten-year-old car. The view under consideration does not reduce one to the level of marginal utility, or even to the level of having only strong moral goods, but it does rule out traveling around the world, eating in expensive restaurants, going out for cocktails, wearing the latest fashion, and buying high-tech gadgets. On this account, sports cars, designer clothes, tropical vacations, the latest tablet computer, and a gigantic house are all morally unjustifiable. In short, the Good Life View, while less demanding than the view generated by Singer's moderate principle, is still quite demanding.

At this point, one might object that the Good Life View is *too* demanding. Morality simply cannot demand this much of us. As I said earlier, I do not find this objection convincing. Why must being good be easy? Be that as it may, deciding whether the Good Life View is too demanding is beyond the scope of this paper. My primary aim in this paper, as I said at the outset, is to show that taking the special obligation objection to Singer's argument seriously does not let us off the hook as far as poverty alleviation is concerned. This is a separate issue from whether the Good Life View is too demanding to take seriously.

3. Other Moderate Views

The Good Life View is one example of a moderate view of our moral obligation to help the poor. There are, of course, a number of such views in the literature. Does the Good Life View have any advantages over them? In this section, I compare and contrast the Good Life View with two other moderate views: Garrett Cullity's and Richard Miller's. Despite their similarities, I think that the Good Life View is better in at least two ways.

In *The Moral Demands of Affluence*, Garrett Cullity rejects Singer's strong principle (what he calls the "Extreme Demand") based on the idea that our moral duty to contribute to poverty relief is grounded in the fact that those who are living in extreme poverty ought to be able to have a good life. Since something morally wrong cannot ground a moral duty, it follows that living a good life is *never* wrong. In other words, according to Cullity, I am morally allowed to provide for myself, and for those who depend on me, a good life even if I could prevent something very bad from happening to someone else by forgoing some of the goods that are necessary for having such a life.

On the surface, Cullity's view looks identical to the Good Life View. There are, however, a couple of important differences. First, according to the Good Life View, a purchase counts as a luxury purchase, and so is not morally permissible, if

one could acquire the same kind and amount of good in a more cost efficient way. Cullity agrees that we ought *sometimes* to opt for the most cost efficient alternative, but this isn't always the case. In particular, according to Cullity, this doesn't apply to what he calls "commitment goods," such as friendship, integrity, and certain kinds of achievement. In other words, when it comes to acquiring goods like these, there is nothing wrong with spending as much money as we please, even if we could achieve the same amount and kind of good in a cheaper way. This seems wrong to me. Yes, some goods are very important—and perhaps friendship, integrity, and achievement are among them. But why think that this gives us free reign to be as careless in our spending as we want when it comes to acquiring these goods? Of course, the "cheapest" alternative is not always the most "cost efficient" one, and sometimes a more cost efficient alternative will not get one the exact same kind and amount of good as a less cost efficient one. But the Good Life View does not require us to always go for the cheapest alternative, or even the most cost efficient one (if we won't get the exact same kind and amount of good from it). And once these distinctions and qualifications are made, I just don't see how we can justify letting commitment goods be immune from this requirement.¹³

A second important difference between Cullity's view and the Good Life View stems from the fact that Cullity fails to recognize that only a certain amount of each kind of good is necessary for living a good life. If friendship is a weak moral good, and only, say, 5/10 on the friendship scale is necessary for living a good life, then anything over 5/10, while being *better* for a person, is not necessary as far as that person's *living a good life* is concerned. Because Cullity fails to recognize this point, his view allows people to spend as much money on themselves as they wish, so long as this money increases one or more of their life-enhancing goods. I think this is wildly implausible. If my child is 8/10 on the happiness scale, and I could increase her happiness just a little bit more by buying her something, then surely this is not allowed if there are people in the world whom I could save from death and suffering by spending this money on them instead. It is possible that Cullity, when faced with this challenge, would agree with me. I don't know. But I do know that a view like Cullity's, which does not take into account the facts that goods come in degrees and that only a certain amount of each good is necessary for living a good life, is less plausible than a view that *does* take these into account.

A different moderate view of our moral obligation to help the poor is Richard Miller's. In his paper, "Beneficence, Duty, and Distance," Miller rejects Singer's "Principle of Sacrifice" and offers in its place his own principle, which he calls the "Principle of Sympathy." According to this principle: "One's underlying disposition to respond to neediness as such ought to be sufficiently demanding that giving which would express greater underlying concern would impose a significant risk of worsening one's life, if one fulfilled all further responsibilities; and it need not be any more demanding than this" (Miller 2004, 359). In other words, we ought to give to charity up to the point where giving more would worsen our lives. What counts

¹³ Catherine Wilson seems to agree with me on this point: "Cullity's view that friendships, however expensive, make inviolable claims is underargued" (Wilson 2006, 460).

as “worsening one’s life”? As Miller puts it: “Additional responsiveness to others’ neediness worsens someone’s life by depriving him of adequate resources to pursue, enjoyably and well, a worthwhile goal with which he is intelligently identified and from which he could not readily detach” (Miller 2004, 360). Clearly, a lot hangs on what Miller means by a “worthwhile goal.” Does he mean *subjectively* worthwhile or *objectively* worthwhile? Depending on which one of these he means, two very different views emerge.

Perhaps Miller means that our goals need only be *subjectively* worthwhile in order to justify us in spending money on them rather than on helping the poor. A goal is subjectively worthwhile for some person if and only if that person happens to find that goal to be worthwhile. The value of goals is in the eye of the beholder, so to speak. This reading fits well with Miller’s claim that we don’t need to change our worthwhile goals for the sake of other people, for this would “do violence to who one is” (Miller 2004, 362). Some of Miller’s examples also seem to support this interpretation. For example, he claims that buying stylish clothes can contribute to a worthwhile goal, namely that of “presenting myself to others in a way that expresses my own aesthetic sense and engages in the fun of mutual aesthetic recognition”; and the same holds for eating out at expensive restaurants, which can contribute to the worthwhile goal of “eating in a way that explores a variety of interesting aesthetic and cultural possibilities” (Miller 2004, 361). While these are clear examples of things that people do in fact find worthwhile, which makes them worthwhile in the *subjective* sense, I am skeptical that they are worthwhile in any *objective* sense. Of course, these activities (i.e., buying stylish clothes and eating out at expensive restaurants) can help one acquire weak moral goods, like happiness and friendship, which are objectively valuable, but I have a hard time believing that these activities are objectively valuable in themselves, apart from the moral goods they bring about.

If Miller understands “worthwhile goals” in this subjective sense, then his Principle of Sympathy basically defends the status quo. After all, people presumably find all of the things they currently pursue worthwhile, otherwise they wouldn’t be pursuing them; and this means that, on this interpretation of Miller’s principle, people are not required to make *any* changes to their current lifestyles in order to help the poor. Whatever goals a person happens to find him- or herself having are all morally okay, even if there are people in the world suffering and dying from extreme poverty. I think this is extremely implausible. I certainly understand why someone might think that we have an obligation to provide for ourselves and for our dependents a good life, but why think that we have the right to pursue whatever we want to pursue, no matter what it happens to be? I’m not convinced.

Perhaps, however, this is not what Miller has in mind. Perhaps he thinks that our goals must be *objectively* worthwhile in order to justify us in spending money on them rather than on helping the poor. A goal is objectively worthwhile if and only if it has intrinsic value, i.e., it is actually valuable, regardless of whether anyone in fact values it. If the things which have intrinsic value are simply those things I am calling “weak moral goods,” then Miller’s view ends up looking a lot

like the Good Life View: on his view, it turns out, we are morally permitted to provide for ourselves precisely those goods that are necessary for having a good life. There are, however, two important differences between this interpretation of his view and the Good Life View. First, Miller, like Cullity, does not place any limits on the amount of goods one is allowed to provide for oneself. This means that if happiness is a weak moral good, then I am morally justified in spending as much money on my own happiness as I want. This seems implausible. Second, Miller does not insist that we ought to pursue the most cost efficient way of acquiring the goods that contribute to a good life. I won't repeat the points I made above when I discussed this problem with Cullity's view (with respect to "commitment goods"), but, needless to say, I think this is a major problem. So, at least in these two respects, I think that the Good Life View is preferable to Cullity's.

4. The Moral Demands of Poverty

I do not think it is unreasonable to hold that we have a special obligation to provide for ourselves and for those who depend on us a good life even if there are people in the world suffering and dying from extreme poverty. However, being entitled to a good life does not entitle one to spend as much money as one wants on the goods that contribute to a good life, nor does it entitle one to spend money in ways that are less cost efficient than others (for the same kind and amount of good). Consequently, the Good Life View, which allows us to provide for ourselves and for our dependents a good life before we contribute to poverty relief, is a very demanding view that requires a radical revision of our current lifestyles. The Good Life View is not as demanding as Singer's, which requires reducing ourselves to the level of marginal utility, but it is very demanding nonetheless. That being said, what more could a person reasonably hope for in life, both for oneself and for one's dependents, than to live a good life?

Because of its demandingness, the Good Life View isn't easy to live by. One step in the right direction is to be more reflective. We can try to reflect more on what the good life is and on which weak moral goods make a life worth living. We can also reflect on how best to obtain these goods. Are our current strategies aimed at acquiring them efficient? Are they cost-efficient? Are we wasting money on more expensive alternatives? Are we currently pursuing any luxury goods? Which purchases are necessary to reach the level of weak moral goods required to have a good life? Which purchases clearly put us over this limit? As noted above, there aren't any universal answers to these questions. But that doesn't mean that we can't, as individuals, begin trying to answer these questions to our own satisfaction. Of course, it would be nice if there were a simple formula that could be used to determine whether or not a particular purchase is morally permissible. Unfortunately, real life is too messy for that. And this is, for better or worse, exactly what we should expect from morality. Since the time of the ancient Greeks, philosophers have been well aware that "ethics is a complex, messy area of decision making" (Shafer-Landau 2012, 254). Ethics is an art. It requires practice, trial-and-

error, emotional maturity, and more. There are hardly any clear-cut, straightforward guidelines. But in the absence of these, and with a sense of humility, we ought to question our current way of life. We can't just rely on societal norms and cultural expectations, because history has taught us that these could be—and often are—wrong. What is required is personal, critical reflection on our own individual lifestyles. Which things do we really need for our lives to be good? The rest we can hopefully give to others.¹⁴

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Art for Bark's Sake

Ethics of Animal Representation in Visual Arts

Beverly Asistol SARZA

Introduction: How to Bark at the Right Tree

Artworks are inanimate and at the same time artificial, yet they can be very powerful. Their absence of mouths does not preclude them from narrating stories that move or influence generations. Think about classics, such as Plato's *Republic* and Shakespeare's *Richard III*. Both carry narratives that are considered timeless. Novels obviously do not possess hands, yet they inspire and cause revolutions. In fact, Philippine independence is unthinkable without Jose Rizal's *Noli Me Tangere* and *El Filibusterismo*. Songs are clearly not time machines but they do take us back in time and down through the memory lane. Paintings and photographs exist without any limbs or arms yet they cause controversies as they make people think and challenge norms and traditions. For instance, Andres Serrano's *Piss Christ* (1987) caused an uproar as it made the Americans reflect not only on their standards of beauty but also on their fundamental religious beliefs. Spectators, both artists and non-artists, spend thousands of dollars and travel miles just to own or personally view paintings. On 2006, Jackson Pollock's *No. 5* (1948) was sold for \$140 million making it the most expensive painting of all time, ousting Willem de Kooning's *Woman III* (1953) which amounts to \$137.5. Among the Louvre's greatest attractions, thousands of people take on a long journey and wait for hours just to look at the *Mona Lisa* for fifteen seconds. As Tolstoy (1896) famously pens it, art "is one of the conditions of human life." Indeed, artworks are deeply embedded not only in our culture and society but also in our consciousness as individual human persons. History serves as witness how artworks successfully support and propagate ideologies, such as *Triumph of the Will* (1935) of the Nazis and Pablo Picasso's *Guernica* (1937).

Recognizing the power and value that the arts possess, animal rights activists-artists employ artworks to serve as voice of the animals. Most of them are inspired by Peter Singer's (1993, 21) *Animal Liberation*, which argues for the equal consideration of interests or to "give equal weight in our moral deliberations to the like interests of all those affected by our actions." As such, this paper will talk about making sense of images that use animals in the works of different animal rights advocates and movements. This research will focus specifically on visual arts (paintings, photographs, sculptures, etc.) and will not discuss performance, performing, music, etc. With this, this paper is a union of animal ethics and philosophy of art.

The problem of representation in the field of philosophy of art can be expressed as: How does X (image) represent y (subject matter, an object)? Or

simply, “What does ‘representation’ mean?” Substantially, this problem is about the subject matter or the “aboutness” of the artwork. To ask about the subject matter is also asking the question “What is this image [say in a painting or a sculpture] about?” For some works, such as a photograph of a cat, it is not problematic for one can say, “It is about a cat.” However, consider some of the artworks that do not photographically imitate nor resemble their referents like most works of abstract expressionists. In some done by animal rights activists, such as Joanne Ehret’s *The Protector* determining their respective subject matters is not a walk in the park.



Joanne Ehret
The Protector
 Watercolor on Paper

Moreover, this paper proposes a way out from the problem of representation: A Wittgensteinian solution. This study borrows the thoughts in philosophy of language of Ludwig Wittgenstein, considered as the most important analytic philosopher of the 20th century. To meaningfully understand the nature of “representation” or how images refer to objects, it is better explained under the notion of “family resemblances” (Wittgenstein 1933, 4). As such it is a concept that does not have a single definition or an essential trait. Instead it is considered as a *general term* that has several common characteristics related with each other thereby explaining its various usages. Let us consider for example the word “games” (Wittgenstein 1933, 17-8). If we are to define it, Wittgenstein (1933, 17-8) suggests to look at it as a “general term” as there are different ways on how we use “games,” such as “card games,” “basketball,” “volleyball,” etc. We can observe that there is no one thing or idea present in all of these usages, not balls, not enjoyment, not cards. So instead of looking for that one single definition or “essence of ‘games,’” we look at a set of concepts or ideas present in all of them. So in the case of the concepts of “representation,” treating it as a general term requires us to look at the similarities on how it is used. As Monroe Beardsley (1958) envisions *aesthetics* as “metacriticism,” “representation” is being used in three senses: *pictorial*, *symbolic*, and *systemic*. These are also the different fibers of “representation” that can overlap and crisscross.

1. On Pictorial Representation

“Pictorial representation” (henceforth PR) pertains to images of physical objects that refer to tangible or material entities or the question, “*How does A (image of a material object) stand for B (object outside the frame)?*” The problem of PR is more pronounced in most modern works of art wherein their subject matters do not resemble their referents. Such situation makes imitation and resemblance theories inadequate, for said theories only account for PR of realist styles or methods like photography¹. Using a Wittgensteinean framework in solving the problem of how images that portray material objects stand for the external world, an artwork that bears such can be considered as “pictorial representation” if it has the same logical form as its referent or the object being depicted. Thus, PR can be expressed as follows: “**An artwork (A) represents an object (O) if A bears the *logical form of O*.** Consider the proposition, “The cat is on the mat,” its logical form is “The x is on y.”

It can be said that Diagrams 1 and 2 (Carney 1981) represent “The cat is on the mat” for they have what it takes to represent the important elements of the logical form, namely cat, mat, and their relationship (x being on y). With this, it means that PR understood as such can be photographic, it can resemble, and it can also be abstract. In short, pictorial representation understood as such is not merely imitative but creative.

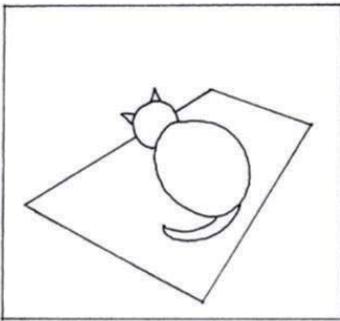


Diagram 1. “The Cat is on the Mat”

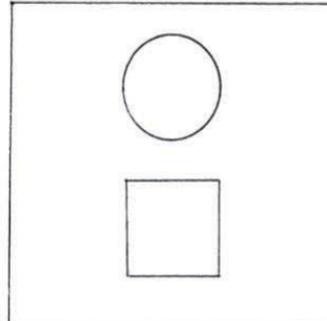


Diagram 2. “The Cat is on the Mat”

1 One of the oldest and the most commonly held positions on representation in the field of visual arts is the *imitation theory*: a work (W) to represents an object (O), W should possess the exact appearance of O. *Resemblance as representation* is a resuscitated and a slightly revised version of imitation that although exact duplication is not a necessary condition for representation, there must be something similar between the O and the W. Both imitation and resemblance theories are considered as *exclusivist* because if one work does not possess the necessary conditions, said work will be recognized as non-representational.

Some animal rights activists who mostly use pictorial representations are (1) Cats of Manila, (2) Sue Coe, and (3) Joanne Ehret. Cats of Manila was launched on Facebook on 1 July 2014 as a page that satirizes clones of Humans of New York (HONY). Instead of featuring random people strolling in New York, it posts photographs of random felines strutting all over Manila captioned with Filipino wit and humor. More importantly, they are actively helping abandoned and abused cats for adoption through the help of social media. Their campaign is very successful for Filipinos are very active in Facebook and Philippine laws against animal rights are not strict. Consequently, their implementation is inefficient.

On the other hand, Sue Coe, an English artist-activist exhibits drawings and prints of gruesome and dark suffering of farm animals, such as chickens, cows, and pigs. She grew up next to a slaughterhouse and a hog farm where she would hear them screaming as they were about to be butchered. This harrowing experience led her to create artworks that not at all photographic yet her viewers bear witness of the pain and agony that these sentient creatures underwent. In her work graphic novel entitled, *Cruel* (2012), she exposes exploitation of animals for human consumption, Coe shares her experience:

One day, we watched a pig escape the slaughterhouse, she ran into [the] highway, wove in between the traffic, was pursued by men with knives and bloodied white coats. Bystanders laughed, as they caught her. At night, the clanging of the chains of the guard dog and the screams of the hogs could be heard. As they crashed against the walls of the tin sheds, they were being stabbed in the eye by an electric prod, to get them to move into the trucks, for their trip to the slaughterhouse. From the slaughterhouse to your house, we knew then, not all was well in this world.

In her other work entitled, *Finning* (2012), it features bloody hammerhead sharks being harvested for their fins. As their fins are being removed with the fishermen's knives, hammerheads watch themselves being maimed because of their 360-degree vision. Their population is ever decreasing for other cultures consider their fins medicinal, an exotic delicacy, and sometimes souvenirs.

Joanne Ehret does volunteer work with farmed animal sanctuaries. As an artist, she gets her inspiration from cleaning barns. This watercolor on paper entitled, *The Mother Dreams of the Stolen Baby* (2012) is part of her ink monoprints about animals, their ghosts and their protectors. In this particular work, she narrates that as a woman, she is touched by the painful lives of dairy cows, their forced inseminations, constant debilitating pregnancies, and loss of all their babies. The shock of growing up in dairy country—Michigan—and being ignorant of this all my life has been profound. I wanted the mother to be looking out at us while she grieves for her baby. We need to see, hear, and feel her loss, and the cries of her baby.

This work has been donated to the Woodstock Farm Animal Sanctuary's auction at their "Thanksgiving" event.



Joanne Ehret

The Mother Dreams of the Stolen Baby

2012

2. On Symbolic Representation

“Symbolic representation” (henceforth SymR) pertains to the use of elements in a certain artwork that stand for something else other than the perceived images. The use of SymR is not exclusive to modern art; it has been a prevalent language in other periods of art history especially during the medieval period wherein symbolisms mostly bear spiritual or religious significance. The use of symbolism in modern art is a reaction against the limited function of PR. Most of these iconographies do not resemble their referents, such as the lamb and fish which are recognized by Christianity as symbols for Jesus Christ. With this, the problem of SymR is stated as follows: *How does W that has a visual image of A stand for B?* Apparently, imitation and resemblance theories of representation are both inadequate in explaining SymR or how such images of animals could refer to an actual person. Because the meanings of these icons go beyond the perceived elements, said explanations can only account for representations of concrete or material objects and may fall short for the characteristics or ideas as subject matters being depicted. On the other hand, these problems can be avoided if one were to use Goodman’s (1968) explanation when representation’s core feature is denotation. However aside from being vague, this account also denies representation through copying and resemblance. By inference, it also rejects other techniques of representation that primarily aim to faithfully render their subject matters. Through the use of Wittgenstein’s framework, SymR can be explained as follows: **A can represent B if both have the same logical multiplicity.** Said principle takes account of all the relationships of each element in a certain artwork with each other and its symbolic system, instead of a piecemeal analysis of individual elements

given in a certain frame. If these elements are taken independently, they will cease to be meaningful for they derive their senses from the relationship they have with each other. For example, three different paintings can bear different logical multiplicities of the bird dove: *Baptism of Christ* (1448-50), *Return of the Dove to the Ark* (1851), and *A Priestess of Venus with a Dove* (n.d.). Although the first two have biblical contexts, the first one is an allusion to the New Testament while the second refers to the Old. In the case of the last painting, the doves appearing with Venus bear a Roman mythological framework. Therefore, these paintings may use the same visual element but they carry different meanings heavily dependent on their contexts. Having different contexts, the dove has different symbolic meanings: Holy Spirit, hope, and love and faithfulness respectively.

What about images of birds in animal rights activism? In the 19th century, the use of actual feathers in hats, shoes, ball gowns, etc. is a symbol of affluence, status, and wealth. Designers like Yves St. Laurent, Cristobal Balenciaga, and Cristian Dior became famous for what is now known as “feather fashion.” This high fashion has killed almost five million birds and has led some of them into extinction. As a response, G.F. Watts painted, *A Dedication: to All Those Who Love the Beautiful and Mourn Over the Senseless and Cruel Destruction of Birdlife and Beauty* (1898). As a noted symbolist who said, “I do paint ideas; not things,” this painting of Watts satirizes the feather fashion:

Watts depicts the fragility and intricate beauty of the bird feathers as they lie spread out as vibrant sacrifices upon the cold pagan altar. The smirking satyr-like figure engraved in the bottom of the altar may have been used by Watts to represent the evil side of man and man’s ability to be both barbaric as well as cunning (Hillary 2012).

As it is, “Watts uses him to symbolise themes of physical or earthly pleasure, idleness and folly, which the satyr is often seen to represent in Greek mythology,” that “adds a further dimension of contempt that Watts feels at the vanity of wearing bird feathers” (Hilary 2012).

This next advocate-artist, Michelle Red Elk, use her Native American symbolisms to advocate for animal rights like in her painting *Standing Watch* (2011), which presents an elk and a prairie dog. Both animals are considered as mystical in the Native American culture that she is a part of. Journalist Ghosn (2011) narrates:

Red Elk meant it as a reminder of all creatures we overlook and the importance of their own worlds. Included in her drawing, buried underground, are also elements of the past: railroad spikes alluding to the expansion of railroads through Indian territories, altering the geography and favoring hunting of the buffalo on which the Natives relied for their survival; bones, symbols of the Native people killed. An elk, animal attentive to his environment, (also in this case an intended link to her last name), connects to the souls of the Indians gone, sensing their spirits and messages, perpetuating the cycle of their life. In the background, tall and

steady are the Wichita Mountains of Oklahoma, witnesses to the history of a people and its land.

With this symbolic painting, Elk recognizes artworks as a remarkable platform that she wishes to change a person's perspective, especially in her campaign for animal rights.

3. On Systemic Representation

“Systemic representation” (henceforth SysR) is the broadest among the other modes of representation. As described by Bell (1999, 212), it is a “*system* within which certain things stand for other things” and a certain subject matter will not possess any meaning at all without these. In the artworld, this “system” includes artistic movements, techniques, traditions, and the artist's personal choice. The problem here is expressed as follows: “How does a movement and individual style stand for a subject matter?” The main theories of representation do not consider social or institutional movements or personal styles. Due to this, said accounts become easily outdated as the techniques and movements in art develop. To account for this mode, the problem of SysR can be solved as **W represents O if W bears the laws of projection for O**. Said laws of projection involve both the *general* (movement or school) and *individual* (artist) styles, and conventions can account for the overall outcome of representation in modern visual arts. The general laws bear the basic principle as “To represent x you ought to do y” (Carney 1993, 815). It also includes the historicity of the painting and the school or training to which the artist subscribes. As each movement operates like a specialized language, the principles of a certain general law of a painting are different from another. Moreover, the artist's personal choices are also factored in solving the problem of SysR. Their intentions and individual techniques or styles that make them different from other artists belonging in one tradition are also subsumed in laws of projection. Said general and individual laws of projection operate as value neutral: an artist's intention does not override a tradition and vice versa. Instead the laws should harmonize or balance each other.

The set of photographs by Krystal Kelly is what she coins as the “splat-art” movement or the belief that you can see beauty in anything, in this case, even in bird poop. In a sense it is like the organic version of the Rorshach Test. These photographs are the main features of her children's book entitled, *Plop & Splat*, a book about two little birds who poop art. Proceeds from the sale of this book go to Art for Animals Sake, Mind Unwind Foundation, and The Seattle Audubon Society.

Another example is from the abstract expressionist, Joanne Ehret. It is a watercolor collage of enslaved animals or farm animals being used for human consumption, their ghosts as they are perpetually being slaughtered like genocide, and the gods and goddesses who protect them.

Both works of Kelly and Ehret can be considered as “representational” for their laws of projection admit their systems of representation.

Conclusion

Through the use of the notion of family resemblances in determining the status the artwork's subject matter, it starts to solve the problem according to its various uses and not by looking and thinking about the essential or core attribute. Furthermore, it explains how a wide range of artworks carrying different styles and movements stand for their different subject matters. The aforementioned three characteristics of how images stand for something or someone outside of their frames can be taken independently or mutually exclusive from each other. In fact, a certain work may possess three or two features. The number of representational characteristics of an artwork determines its level of representationality. For instance, in *Save the Chimps Foundation*, human artist Nathaniel Gold paints alongside with rescued primates named Cheetah, Timmy, and Melody. Their paintings are being sold to fund the advocacy. One of the implications of thoughts being "logical pictures" is that it can be true, false, and nonsensical. Moreover, their paintings can also be considered as a SymR. In the language of visual artworks, painters use chimpanzees or primates in Mayan and Japanese art. With this, the logical multiplicity of the painting's subject matter agrees with its referent because the use of a primate is an institutionalized mythological symbol. Finally, this particular painting can also be considered as a SysR. With the use of acrylic and house paints, this work exudes technique and style with its random angles and coherent sense of depth (general law of projection). The painting can thus be considered as a fully representational artwork for it bears the three modes of representation. Shunning the limitations of exclusivist theories, this explanation focuses more on the creative or progressive nature of art rather than on the imitative. As it attempts to consider the various techniques or movements of both the artists and their tradition, this account sustains itself as art history evolves. Furthermore, this helps both artist-activists in propagating their advocacies and their viewers can critically appreciate their messages.

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What is Moral Application?

Towards a Philosophical Theory of Applied Ethics

Fabio FOSSA

Introduction

The aim of this paper is to offer some philosophical remarks concerning the concept of moral application in applied ethics. In doing so, I argue in favour of a philosophical approach towards applied ethics as a unitary form of moral experience. In fact every form of applied ethics, no matter how specific, moves from a problem of application and tries to fill a gap between moral theory and practice. This essential unity of applied ethics as a moral phenomenon is of great philosophical interest, since it belongs to the core problem from which moral thinking itself originates. For this reason, what applied ethics may reveal to a philosophical inquiry could provide valuable insight into the nature of moral experience itself. This is why it is important to reflect on what applied ethics is and whether the way in which application is usually framed befits the properties of moral experience or not.

In the first section I submit some preliminary remarks concerning the theoretical requirements to any philosophical approach to applied ethics. In the second section I present how application is commonly understood in the applied ethics debate by discussing the *deductive* and the *procedural* models of application. Both models, however, draw upon a technological conception of application which fails to fit the structure of moral experience. Finally, I briefly sketch out the main features and the future tasks of what seems to me to be the most promising approach to the issue, i.e., the hermeneutic concept of application.

1. Preliminary Considerations

Before tackling the problem of moral application in the applied ethics debate, some preliminary remarks are in order. Specifically, it is necessary to clarify (1) why moral philosophy should take the field of applied ethics into consideration at all, instead of leaving it to other disciplines such as politics or social science; and (2) whether or not it is plausible to address applied ethics as a meaningful whole, i.e., as a bound and determined form of moral experience, so that a *philosophical theory of applied ethics* would be possible.

Although at first sight it may seem otherwise, both points are actually highly controversial. This is why it is critical to deal with them as a first step. In fact, a philosophical discussion of moral application which focuses on applied ethics cannot but rest on specific presuppositions concerning what applied ethics is and

how it is connected to moral philosophy. The preliminary analysis will contribute to spelling out and testing these requirements, thus clearly stating the general conditions of this study. Moreover, it will help realize the philosophical importance of what the applied ethics debate brings to the fore. Finally, it will underscore the reasons in favour of a deeper inquiry into the concept of moral application.

Let us consider the first issue: Is applied ethics something philosophy should care about? As is widely acknowledged, philosophers have struggled—some still do—to recognize applied ethics as a serious philosophical discipline (Beauchamp 1984, Beauchamp 2003, DeMarco & Fox 1986b). Sure enough, there are plenty of reasons to be suspicious of it. As many have pointed out, applied ethics seems to lack the rigour and critical sharpness of moral philosophy, so that it exposes itself too easily to being co-opted by the institutions or practices it wishes to ameliorate (Caplan 1980, MacIntyre 1984, Young 1986). Furthermore, and not surprisingly, many find the concept of “ethicist” (i.e., of an alleged moral expert) and the joint claim by which morality can be taught in classes very difficult to accept (Noble et Al. 1982, Janik 1994, Rorty 2006). In addition to this, some authors think that there is no particular connection between moral philosophy and applied ethics, since the two are different in scope and methodology (Lawlor 2007, Hoaglund 1984, Davis 2009). Others believe that applied ethics does what moral philosophy has always done, but dangerously simplified and misrepresented (Bahm 1982, MacIntyre 1984, Rorty 2006). In conclusion, one might very well think that “true” moral philosophy should leave applied ethics to more politically or socially oriented fields.

However, in my opinion, none of these reasons is sufficient to justify a philosophical rejection of applied ethics. Undeniably, some objections have a strong point, but the field of applied ethics is solid enough to face them and modify itself accordingly. The act of stressing what is missing from the methodology of applied ethics invites us to find new ways for its improvement more than providing final evidence for its rejection. To some extent, this is what has happened in the last forty years. What philosophers still need to work on, then, is a proper understanding of this moral phenomenon, which would help seize the opportunities it offers. In fact, the applied ethics debate has a precious lesson to teach about moral experience.

The value of this opportunity must not be underestimated. Applied ethics stresses what is the most fundamental issue of moral philosophy, that is, the problem concerning the connection of theory and practice in our moral experience—or the problem of application, which is the same. There is no need for moral philosophy unless a certain gap makes it hard to see what it is that we deem good and how it is to be pursued. Applied ethics arises from the same experience in which moral philosophy is rooted. Thus, it ensures immediate access to the main object of philosophical ethics, i.e., moral experience. Moreover, applied ethics as a moral phenomenon utterly belongs to the present historical condition: one pervaded by new technologies, deeply specialized, morally pluralistic, in which new ethical issues require new questions in order to be framed and understood.

Applied ethics provides the possibility for a radical inquiry into moral experience that, at the same time, remains tightly connected with the peculiar features of our contemporary existence. It offers a chance for reconsidering our

knowledge of the elements and structures of morality; a reconsideration that is one with the particular, and yet universal, experience from which the need for moral reflection arises *today*. This is why applied ethics is of great philosophical interest.

For all these reasons, then, moral philosophy should care about applied ethics. Yet, it is not obvious that a philosophical approach to applied ethics is tenable. Many are the differences between the two disciplines. Perhaps the most apparent is that, while moral philosophy tries to develop a general theory of moral experience, applied ethics seems more interested in addressing particular issues appropriately and contributing to their ethical framing or resolution (Hoaglund 1984, Toulmin 1986, Rorty 2006). While the first tends to a single object, the second is varied and diverse in scope; while the first displays a theoretical character, the second exhibits a practical nature. For our purposes, some sort of mediation between the two is needed. Applied ethics may be of some interest to the conceptual study of moral experience only if a *philosophical theory of applied ethics* can be elaborated. Can it?

Even the label I have just resorted to, “philosophical theory of applied ethics,” seems to suggest that the approach may be faulted. In several papers, applied ethics is presented as the offspring of a criticism against a detached, abstract or theoretical approach to moral experience (DeMarco & Fox 1986b, Singer 1986, Dare 2012). For this reason, a new step toward theory that moves from inside applied ethics itself might well be seen as a total misunderstanding of what it is all about. However, the possibility of this approach does not depend on the intentions backing up applied ethics, but on the features the field itself displays. So, would it be possible to elaborate a theory of the common contents shared by the many disciplines that spontaneously group themselves under the rubric of applied ethics? Is there any use at all in asking what applied ethics is?

At first glance, it may seem not. Rather than unity, plurality and multiplicity are undeniably much more evident properties of the applied ethics debate. Allhoff (2011) claims that there are no actual links between fields as different as business ethics, medical ethics, bioethics, engineering ethics and so forth. In his opinion, these fields are completely autonomous to one another, since each of them addresses specific issues, is structured in a unique way and works with its own categories. Even a shared and distinctive reference to ethical theory or philosophy in general is quite commonly refuted (Rorty 2006). Hence, it seems that no unity underlies the many fields of applied ethics.

Why the common rubric, then? Even if it is just a convenient tag, there must be a reason behind the need of tying these different undertakings together. I believe that this reason lies in the shared practical ground upon which all forms of applied ethics stand. Applied ethics was initially brought into being in order to face a state of embarrassment, by which practitioners and common people felt suddenly unable to find moral orientation in the execution of their duties. Mostly due to technological progress, the usual ways things were done were transformed and traditional codes of conduct ceased to provide reliable moral guidance (DeMarco & Fox 1986b, Winkler & Coombs 1993b, Chadwick 2012b). Moreover, applied ethics challenges usual practices which before were not realized as morally problematic.

Every field of applied ethics faces a problem of *application*, i.e., tries to fill a gap between something that is happening and how we think it should happen.

This problem, which makes applied ethics so interesting for moral philosophy, is also what unifies all the different inquiries that fall under this rubric. It makes no sense to debate the meaning of moral application separately in business ethics, engineering ethics, and so on. Since every field of applied ethics must face the topic in analogous terms, the burden may be shared. So to speak, the problem of application lies at the very *essence* of applied ethics, allowing at the same time to address it as a whole. Incidentally, this also shows why the rubric “applied ethics” is an appropriate one: not because it presupposes a particular way of connecting theory and practice, but because it stands for a discipline by indicating its most inner question. If this is so, a philosophical theory of applied ethics is certainly possible. Its main task would be to clarify what we mean when we talk about moral application¹.

This question is critical for both moral philosophy and applied ethics. The reason why moral philosophy should focus on it has already been stated. Besides, applied ethics as a whole cannot but benefit from this line of research, since self-knowledge produces clarity and scientific adequacy. So, a philosophical inquiry into moral application may not only bridge the gap between moral philosophy and applied ethics, thus helping the former to elucidate the distinctive elements and structures of contemporary moral agency; it can also further the self-awareness of applied ethics, so that a better understanding of its own potentiality may be attained.

Now that the preliminary requirements to a philosophical inquiry into the essence of applied ethics have been spelled out, let us turn directly to its fundamental question: what is the meaning of “moral application” in the applied ethics debate?

2. Technological Models of Application

In order to tackle this question, a starting place is required. Although the developmental trend of the applied ethics debate is undoubtedly content-driven, a self-reflective effort may also be pinpointed. However, its relevance is not even comparable to the one achieved by the many fields of applied ethics. In addition, the challenges these fields are bound to face in the near future may seem more

¹ The very first challenge that must be faced in order to develop a philosophical approach to applied ethics consists in choosing knowingly between the several names that have been proposed to signify what is commonly meant by the term “applied ethics.” Among the most frequent alternatives are expressions such as “practical ethics” and “case ethics.” Some authors judge these expressions to be more appropriate because they avoid taking a stand on the relationship between theory and practice proper of this form of experience. On the contrary, they claim, the term “applied ethics” conveys a confusing image of it (MacIntyre 1984). However, for the reasons just exposed, I deem the term “applied ethics” quite satisfactory.

compelling than any theoretical need for self-reflection. This can be neatly illustrated by comparing the two prefaces by Ruth Chadwick to the first (1998) and the second (2012) edition of the *Encyclopedia of Applied Ethics*. The first preface introduces the reader to the main themes of applied ethics without failing to inform her of the existence of a branch of research concerning

“(…) whether it is a matter of ‘applying’ a particular theory to a specific dilemma; or whether phenomena, specific developments, particular cases, can affect the development of appropriate theory; whether there is room for a ‘bottom-up’ rather than a ‘top-down’ approach”;

or that

“Some would argue that a central task of Applied Ethics, and one that is prior to the application of theory, is the very identification of the moral dimensions of a situation” (Chadwick 1998b, XXXV).

In the second preface, written 14 years later, Chadwick acknowledges the increase of interest in the many fields of applied ethics fuelled, for example, by historical circumstances such as the 9/11 terrorist attacks or the many issues related to the human genome project². However, when it comes to the theoretical reflection on what applied ethics is, the author simply rewrites the quote mentioned above. As the example shows, although the importance of a theoretical analysis concerning the essence of applied ethics is widely recognized³, this subject still occupies an awkward position in the applied ethics debate. However, even if (perhaps) of minor interest, a discussion on the meaning of the term “applied ethics”, or on the concept of application, has sprung up among philosophers, ethicists and practitioners at least since the end of the 1970s and the beginning of the 1980s. What has been said there?

The first scheme through which moral application in applied ethics has been conceived is the *deductive model* (Bayles 1984). Apart from this label, the same notion is known by many names. Arthur Caplan firstly defined it *the engineering model* (Caplan 1980); others called it *the applied ethics model* (Winkler 1993, Johnson 2003), *the dominant conception* (MacIntyre 1984, Hoffmaster 1991), *the standard model* (Wolf 1994), *the unified approach* (Lawlor 2007) and so on.

The main point of the deductive model consists in interpreting the experience of moral judgment as an inferential process producing “solution by subsumption under general principles” (Caplan 1980, p. 30). The general ethical principles under which to subsume the particular data may come from different schools of ethics—variations on Kantian deontology and utilitarianism are the normative

2 Interestingly enough, she also confesses that she and her team unfortunately had to run a hard selection among all the possible topics in order to edit their more than 3,100 page long *Encyclopedia*.

3 To which Chadwick contributed in first person (Chadwick 2009).

standpoints most frequently discussed. Principles may also be drawn by recourse to different methodologies, for example by deductive reasoning on what is right or good (Bahm 1984, Gert 1984), or by inductive inferences from pools of considered moral judgments (Daniels 1979, Winkler 1993, DeMarco 1997). Furthermore, the model works with both monistic and pluralistic approaches to ethical theory. In the first case, application is understood as putting to use what our true, universal, and therefore exclusive, moral theory shows to be worthy of respect and appreciation. In the second case, which Chadwick (2009) called the *fruits of theory approach*, application is understood as using different ethical theories as tools in order to analyse a situation from multiple angles and shed light on our obligations. Whatever their origins, principles are specified in the encounter with the cases they are called on to deal with. Consequently, it follows that the different fields of applied ethics are content-driven specifications of general ethical theories. In conclusion, the deductive model does not account for the determination of principles, but for their application. Here, application stands for the subsumption of the many data displayed by a concrete case under normative moral categories in order to deduce a solution to the problem at hand.

Since its first appearance in Caplan (1980) the deductive model has been harshly criticized, mostly due to its abstractness, rigidity, and inadequacy to representing the inner logic of moral experience (Toulmin 1981, MacIntyre 1984, Bayles 1984, Hoffmaster 1991). Though its influence on practitioners and the public seems still to be strong (Cattorini 2014), its theoretical abandonment is more or less complete (Beauchamp 2007).

What is the alternative? Given that the assumption of any singular normative stance is problematic, due to its rigidity and partiality, and given that pluralism seems to be an unavoidable condition to the current ethical debate, perhaps the discussion about application should be shifted from a normative ground to a more practical one. That is what the *procedural model* of applying ethics suggests: to put aside normative considerations in favour of a carefully studied procedure, the application of which would help control moral disagreement and would lead to joint decision (Hare 1986, van de Poel and Royakkers 2007, Muresan 2011). The task is now to develop a neat, effective and simple procedure that can successfully guide the ethical subjects step by step through the collection, analysis, classification, and processing of morally significant data in order to produce a widely shared, rational and therefore moral solution.

As long as it is acknowledged as pertinent, every ethical consideration can take part in the procedure, no matter the theoretical background in which it is rooted. It is not a reflection upon principles, but the decision-making procedure itself, that determines the weight a particular moral opinion deserves. In addition to this, the procedure puts to work analytical techniques which identify the components of a situation, and logical reasoning tools that help connect them to the appropriate set of consequences. The aim is to elaborate different scenarios and be able to choose among them, impartially and impersonally. The ethicist must not be an expert in ethical theory, but a technician who knows how to apply a procedure and how to manage every step of it (Muresan 2011). As Tim Dare writes, “Her skill

is procedural rather than substantive” (Dare 2012, 170).

This model has its critics, too (Norman 2000). However, the task of assessing the adequacy and limits of the two models exceeds the scope of the present work. For our purposes, it is necessary instead to focus on how both the deductive *and* the procedural models portray the concept of application. In fact, although the two models are very different from one another, they both share a common reference to a *technological* framing of the concept of application.

The connection between technology and applied ethics is very complex indeed. As mentioned earlier, technology is one of the factors which caused the rise of applied ethics. Moreover, the epistemic structure of technological science—or a possible understanding of it, with which I will deal soon—is often invoked as a blueprint for applied ethics. This general trend impinges on the two models of application as well. The deductive model of applying ethics is usually understood as a moral imitation of the technological way of thinking (Caplan 1980, Kopelman 1990). Consequently, it is often introduced by means of an analogy between two relations: the one that exists between theoretical and applied science and the one between theoretical and applied ethics. The elements of the analogy, so it is argued, are connected by a similar reasoning, that is, as we have already seen, subsumption of cases under general principles and predictive deduction. In this perspective, applied ethics tests theories by getting in touch with concrete situations, just like any other empirical science. So, as Bahm (1983) writes, we do need ethical engineers: skilled technicians who know how to put ethical theories into practice and know when to declare the inadequacy of some theoretical account. Though it can be argued that this line of thinking not only misrepresents moral experience, but also the engineering way of working and the relation that obtains between theory and practice in modern technological science, the idea of the ethicist as a skilled technician, a carpenter who knows how to use her toolbox well, was not an unsuccessful one (Edel 1986, Harris 2009).

Even the procedural model looks up to technological science. In fact, its rejection of any normative stance is inspired by the so-called value-freeness, impartiality or impersonality of scientific thinking. Technological science knows its objects by controlling them, that is, by reducing them to measurable terms and cause-effect relations, by breaking them down to their elementary components, by artificially reassembling them, and, finally, by elaborating affordable provisions about their development or behaviour (Jonas 1974, 1984, 2000). The procedural model tries to face the challenges posed by moral cases in an analogous way. Moral experience is, first of all, a confused object that calls for clarification and need to be handled carefully. The most effective way to do this is to apply an analytic procedure that help reorganize its contents and formulate trustable provisions of its future states, so that the entire process may be adequately managed and the most suitable solution found.

Both models, then, seem to presuppose a *technological concept of application*. According to this viewpoint, “to apply” means to use theory as a tool to solve practical problems. “To apply” stands for “to use,” “to put to work” a theoretical structure capable of collecting data, elaborating trustworthy provisions, managing

the relative phenomena, and getting results. The characteristics of the case at hand must be subsumed under an inferential framework—be it normative or procedural—and processed. Therefore, the criteria by which a theory must be assessed are typically instrumental, i.e., those criteria by which we usually evaluate tools: effectiveness, efficiency, speed, user-friendliness and so on. If ethical theory is just an instrument, a means to an end, it must be evaluated and developed accordingly.

By and large, ethics has to be reformulated by appealing to the epistemological structures of technological, or “applied”, science. So, up to a certain point, there may be moral experts. Facing a moral problem, then, does not seem to require anything more than some form of technical expertise. Similarly, morality must be reducible to a set of skills and rules that needs to be properly applied. Rules and procedures make the whole process self-evident, and, therefore, verifiable. Application in general, moral application included, is the impersonal execution of *functions* by experts who stick to fixed rules. According to this account, the task of applied ethics would be to foresee possible strategies of action that satisfy our moral sensitivity by recourse to the “moral toolbox,” just as engineers use their knowledge to cope with the resistance of reality and conform it to their blueprint. Applied ethics would be, then, a *problem-solving* activity by means of logically verifiable *decision-making* techniques.

Conceiving moral experience in instrumental terms, however, is highly problematic. The reason for this can be illustrated by reflecting on the concept of use (Jonas 2000, § VIII; 1979, § III). “To use something” means “to put a tool to work in order to achieve an end.” The end I choose is the fundamental element that determines both the selection of tools and their mode of employment. This is to say that the existence and value of a tool entirely depend on the purpose the tool is supposed to serve. I decide which tools to utilize by taking into consideration the purpose of my activity and the condition of my tools, which, again, is assessed with reference to my purpose. If I want to hang a painting on the wall, then I need to hammer a nail into it; thus, I will take out of my toolbox nails that fit the texture of the wall and the weight of the painting, as well as the best hammer I have.

When the job is done, I can evaluate my performance in two different ways. To begin with, I can question if the function (i.e., hammering nails into walls) could have been executed more efficiently. This kind of assessment is intrinsic to the instrumental act: it evaluates the execution of a function in instrumental terms. Otherwise, I can check whether the outcome of my performance satisfies my expectations and tastes or not (for example, if it was really a good idea to hang that particular picture on that particular spot on the wall). In so doing, I assess the adequacy of my act in compliance with what I deem right and wrong, good or bad, beautiful or repulsive, appropriate or inappropriate.

The two sorts of assessments are evidently dissimilar. The instrumental evaluation is completely end-dependent: it measures how efficiently a given goal is attained. For this assessment to be possible, the purpose of the act must be already set. The scope of the evaluative process is to measure the overall efficiency of the performance in order to improve it, i.e., to make it more efficient. This assessment

reveals the existence of an independent logic that intrinsically belongs to the concept of use and determines every instrumental phenomenon. This is the same logic that guides the progressive development of our technologies: every time a new device is released, its main improvements concern power and efficiency in executing functions. When I work on a tool (or a standard procedure) I abstract from the autonomous purpose-setting activity that brings people to the tool I am developing. I simply assume that someone, in the process of achieving her own goal (of which she is responsible), may need to do something which can be facilitated by using my tool. I just pick any possible function (for example, hammering nails into walls *per se*) and build a tool that makes it easier to do that. All I need to care about is efficiency in the execution of functions.

If moral application is understood as the execution of functions, then moral philosophy must be evaluated as if it were a tool, i.e., by its efficiency. However, the task of moral experience is not just to perform an act of application in the most effective way. More importantly, we try to understand how a particular goal is connected to the ultimate end of human life and to the values we deem worthy of respect and affirmation. Moral experience, then, has to do with the second type of evaluation we saw earlier. This is why the technological or instrumental concept of application is unfitting in ethics. When we talk about moral application, the autonomous purpose-setting act which motives and gives meaning to my action must always be taken into account. If efficiency takes the lead, then a heterogeneous end-dependent logic overrides the very moral content upon which ethics is based.

If this is right, “to apply” has to stand for something else in ethics. The concept of application cannot be reduced to the logic of instrumentality, but has to deal with the autonomous purpose-setting agency presupposed by instrumental activities. Every function is executed within the context of a purpose-setting action and within the domain of meaning it settles. Modern technological science develops itself in an automatic way, following its own inner logic, since its inner goal is efficiency. So, it does not need—at least, again, from an inner perspective—anything more than an instrumental concept of application. On the contrary, moral application must encompass autonomous purpose-setting agency as well, which in turn settles the moral sense of the instrumental activities it supports, including technological science. Technology, hence, is an instrumental activity (Johnson 2003): its moral sense is understandable only if we ask why it is practiced, and if we compare its motives to the present state of affairs. Technological models of application, in conclusion, cannot submit a tenable account of the relation of theory and practice proper to moral experience. Application, in ethics, has primarily to do with the reasons that give moral meaning to our behaviours (Gadamer 1980, Jonas 2000).

3. Hermeneutics: A Theory of Application

Both the deductive and the procedural models have given rise to a heated debate

in which several objections have been raised. However, at least to my knowledge, a complete critical analysis of the technological models of applied ethics has yet to be adequately developed. To take a first step in this direction, I believe it possible to pinpoint at least three patterns behind these objections. These patterns in turn all hint at a completely different framing of the concept of application. This new perspective may help overcome the deadlock of the technological approach sketched out in the previous section, but at the same time it carries its own load of problems.

The objections to the technological models of applied ethics raised in the debate may be approximately summarized as follows:

The *wisdom vs. skills* argument

As already seen, the point of moral experience consists in reflecting on the relation that obtains between the achievement of practical ends and the respect and affirmation of values we deem worthy in themselves. However, no empirical science can determine once and for all the contents of the ultimate ends of humanity or deduce the values that consequently follow from them. The determination of ends and values is inseparable from their practical pursuit and concretisation. This matter pertains to moral experience and moral reflection: no empirical science can settle it. For these reasons it seems incorrect to reduce the complexity of moral experience to a set of skills the recourse to which is enough to work out our moral quandaries. Technical and moral attitudes express different modes of our existence. As technicians we need skills, expertise, tools, resources and a given purpose, so that we can figure out how to achieve this purpose best. As moral agents we need *wisdom*, i.e., a particular kind of knowledge or experience that provides us with insight into what we consider right and good; a kind of knowledge the contents of which are inseparable from the very practice inspired by it (Noble et Al. 1982, Rorty 2006).

The *judgment vs. procedure* argument

Although some merit must certainly be recognized in procedures even in relation to moral experience, it seems that something else is needed to act morally. This “something else” usually goes under the name of *judgment*, which draws upon the Aristotelian concept of *phronesis*. This concept is supposed to mark the difference between the mechanical execution of functions and the free act of deliberation that weighs alternatives or expresses evaluations in accordance with moral values⁴.

4 It is certainly true that most of the time one step of the procedure (frequently one of the last steps) is dedicated to the exercise of “judgment.” The combination of judgment and procedure, however, is not unproblematic. The whole point in calling upon judgment, wisdom and practical knowledge is to draw a neat line between what can be translated into methodological guidelines, rules, schemes or procedures and what cannot. Hence, these two forms of rationality display entirely conflicting logics. Procedures may cooperate with the exercise of practical knowledge if and only if the faculty of judgment keeps control over the procedures. In this case, the use of procedures—or machines, as in Whitby (2011)—as moral deliberative assistants is hardly questionable. However, the latest trend in the formalization

The core idea is that, as long as moral experience is concerned, there is neither a formal rule to stick to, nor any inferential scheme that logically represents it. The performance of moral judgment is a *lawless* one, to which everyone is always exposed and that we all learn by experience. This point is often made by referring to the judge's finesse in applying the law or the physician's prowess in applying his knowledge while diagnosing. This kind of finesse or sensibleness is related to wisdom or, better, it is not possible to take them separately. To be able to perform sensitive judgments is a sign of moral wisdom, i.e., of some kind of knowledge about what really matters and how to concretise it. The capacity to justify these judgments adequately, moreover, is a sign of moral insight (Toulmin 1981, Bayles 1984, Cattorini 2001).

The question vs. solution argument

If this is the case with moral experience, it makes no sense to think of applied ethics as a problem-solving activity by means of decision-making techniques. The possibility of a widely shared solution to a moral case lies in how the case itself is framed. So, from a moral perspective, raising questions about what we do seems more important than providing solutions. To some extent, since there is no final and complete knowledge of the contents of morality, the very idea of moral experience as the management of issues that need to be fixed is a misrepresentation. Again, since moral experience has nothing to do, at least directly, with measurable or composite objects, the idea that a moral case is to be solved by the application of analytic-synthetic procedures misses the point. Applied ethicists care about the recognition and framing of moral quandaries, so that moral agents (applied ethicists included) may reflect upon them and search for orientation. To raise a good question is the most important step to recognizing the moral sense of a situation and trying to affirm it through action. The problem-solving structure seems too narrow a scheme to represent moral experience, and a deceptive one too, since the ethicist would be too easily mistaken for a moral problem solver who frees practitioners and laymen from the burden of thinking morally and taking responsibility (Caplan 1983, Beauchamp 1984, Norman 2000).

These objections surely are not lacking in internal coherence or number. However, they are lacking in unity and, therefore, in fertility. In fact, the conclusion they come to most of the time is the abandonment of any reference to the concept of application—to the advantage of what, I am not sure. What is pivotal to notice now is that all these objections bear a common reference to a very specific philosophical

of moral experience points to the replacement of the “lawless” performance of judgment with automatic executions of functions. In this case, which the field of *machine ethics* has already begun to explore, the situation is clearly inverted: procedures take the lead over judgment and practical wisdom. So much so that some authors in the field of machine ethics already pushes to frame human moral experience in robotic terms. This peculiar form of over-identification between human beings and machines is a product of the aforementioned tendency. I thank Prof. Michael Davis and Ryo Chonabayashi for their remarks in this regard.

trend, i.e., Hermeneutics, which really deserves to be thoroughly discussed.

As seen earlier, the discussion on the concept of application within the applied ethics debate either stands for a technological model of application or rejects the whole topic, claiming that no application ever happens. Nonetheless, behind the most significant objections to the technological models lies a common reference to philosophical hermeneutics, that is a *theory of application*, as Gadamer was writing about during the same decades which saw the rise of applied ethics (Gadamer 1980; see also Gadamer 1982, 1998, 2004 and Cattorini 2001, 2014). All that remains to be done is to try and see whether the way in which Gadamer presents the act of interpretation as application may play a positive role in understanding what applied ethics is.

It is not possible to go deep into Gadamer's theory now. Nonetheless, its main features may be briefly sketched as follows. To some extent, the act of interpretation is analogous to moral judgment. There is no subsumptive mechanism for interpretation and no straightforward application occurs in the act of disclosing the meaning of a text in a particular situation. No rule or scientific methodology can lead the interpreter to secure success. Application, here, has a completely different meaning: it is not an inferential act that may be formalized, but a descriptive concept. The hermeneutical notion of application, in other words, informs of the conditions which make any event of understanding possible. On the one hand, the interpreter is always applied to the specific situation in which she lives and in which she encounters the text. She cannot depict herself as an absolute, impersonal subject. The interpreter is a concrete person: she was raised in a particular culture and she is determined by personal interests. However, she can reflect on her own presuppositions and, up to a point, become aware of her own historical determination. Conceptual self-analysis is the first step towards the recognition of something as interesting in itself, since it helps formulate questions about what matters. The same questions, of course, tell us something about what matters to us, i.e., about ourselves as historical subjects. Gadamer calls this self-analytical side of understanding—which is inseparable from the other side I am going to deal with next—*wirkungsgeschichtliches Bewußtsein*, historically effected consciousness.

The interpreter's search clarifies how the meaning of a text in particular, but in general as well, must be categorized. Meaning is not a material object the interpreter finds and exhibits to others so they also can see it for what it is. It is not even a sheer projection of the self, or a collection of considered judgments, or a subjective agreement obtained through procedures and negotiation. Meaning manifests itself in the form of an appeal that asks for consideration, care, and concretization *in the particular situation in which it resounds*: it calls for a dialectical connection with an interpreter that is interested in its contents. Its universality is always correlated to a specific case in which it reveals itself to the ears of a properly prepared interpreter. The universal content of meaning does not exist apart from its applications. Though the meaning of a text is always the same, it exists only in its own consecutive encounters with different interpreters, that is, in its own *effective history* [*Wirkungsgeschichte*]. The meaning of a text is undistinguishable from its many proper interpretations: it *becomes* these

interpretations, remaining nonetheless one in itself. Then, meaning is always applied to the situation in which it becomes perceptible to the interpreter's ears.

From this perspective, no gap seems to divide theory and practice. The hermeneutic experience is grounded in a concept of application that is alternative to the one active in technological experience. On the contrary, Hermeneutics reminds us of Aristotle's practical philosophy. Theory, here, is not a tool we use to solve issues; it describes the conditions in which practice takes place. The performance of interpretation, just as the one of moral judgment, cannot be framed by recourse to the conceptuality of use. It needs to be conceived of in terms of an experience in which the subject is caught by something that asks for respect and realization, the meaning of which is universal and yet particular, applied to what is currently going on. Application must be thought of not as a subsumptive act that matches particular data to general rules in order to deduce solutions, but as an overall dimension in which it is possible to perceive what matters and to lend it our voices and our actions. The pursued end and values are not external to application. On the contrary, ends and values define its very terms. Moral application describes how a moral subject takes on herself what she deems worthy of respect and tries to affirm it in a particular situation. That is why moral experience cannot be framed by reference to the concept of use. The kind of involvement Gadamer ascribes to the hermeneutical experience is the same one applied ethicists seek in order to overcome the gap of theory and practice they have to face. While dealing with different sides of human experience Hermeneutics and Applied Ethics may very well have reached the same core. On this basis, what Gadamer wrote about the hermeneutic experience may serve as a blueprint for a philosophical theory of applied ethics.

To stand a chance, however, a hermeneutic theory of applied ethics must be at least as appealing as the technological one. As already stated, the categories of use, problem-solving, procedure, function, mechanism, skill and so forth are unfitting to the properties of moral experience. Since moral application must include the self-determination and concretization of ends and values it seems that moral experience cannot be boiled down to any productive use of tools or execution of functions. While we always need to ask ourselves to what purpose we use something, acting morally is an end in itself though this end may be hard to define. Yet, the spirit that holds applied ethics up is a very practical one. Applied ethics cares about solutions, effectiveness, and operational methodologies. It is drawn to the ideas of a teachable set of skills and a trustworthy professional figure that can help practitioners deal with moral issues. A hermeneutic theory of applied ethics must reconsider these aspects and adjust its own structures to these demands, which I think belong to the very essence of applied ethics. By doing that, it may also produce a better understanding of the social and political components of applied ethics, as distinct but also linked to the moral component.

In addition to deepening the theory of moral experience and moral value by analogy with the hermeneutical experience and the structure of effective history, a philosophical theory of applied ethics inspired by the hermeneutic concept of application shall not ignore the specific details of our moral condition and

the requests it puts forward. In so doing, it could promote our understanding of what it means to act morally in a technological world and contribute to provide contemporary moral philosophy with a proper perspective towards our present condition. While we know (by and large, at least) the outcomes of the technological account of moral experience, we still ignore what the hermeneutic perspective may reveal not just to the applied ethics debate but also to our general understanding of contemporary moral experience⁵.

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5 As a consequence, the conclusion of this paper cannot but be tentative and open-ended. Reframing the problem of application in hermeneutical terms requires not just a significant change of perspective, which may result in a revision of well-established concepts such as the very idea of a method for facing morally problematic situation, or the interconnected notions of expertise and education, or the problem-solving structure as a model for moral experience; it also requires an inquiry into the link that binds Hermeneutics to moral experience and, in particular, to applied ethics. What I wish to stress now is that Hermeneutics, being a theory of application which refuses any reference to the language of instrumentality, *may* provide valuable insights into the nature of applied ethics and, by the same token, contribute to an overall review of the meaning we attach to expressions such as "values", "objectivity", "normativity", "dialogue", "moral experience", and so on. What may be said in this respect, however, demands a great deal of work, which cannot be taken any further here. I wish to thank my anonymous reviewer for suggesting this clarification.

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From Cyborgs to Companion Species

Affinity and Solidarity in Donna Haraway's Feminist Theory

Tomohiro INOKUCHI

Introduction

Donna J. Haraway is an important researcher in feminist science studies. Her early achievements are represented by two works, *Primate Visions* (1989), containing studies on the history of primatology and gender, and a challenging article titled "Manifesto for Cyborgs" (1985), also known as "A Cyborg Manifesto." Using the image of hybrids from science fiction as a tool for analyzing actual women, this article has received great attention and has been cited numerous times.

Haraway's recent research has led her to publish another manifesto, 20 years after her former one. In *The Companion Species Manifesto* (2003) and *When Species Meet* (2007), Haraway discusses ethics in coexistence and cohabitation, employing the concept of a companion species. While her writing mainly focuses on human–dog relationships, her books discuss various relationships between humans and other entities.

Influenced by her complicated portrayal of companion species and the expression of artless intimacy with dogs, previous studies have incorrectly interpreted Haraway's new manifesto. The present study aims to clarify the intention of her transition from the cyborg to the companion species, overlooked by previous studies, and thereby the significance of her thought as a sustained project.

First, this study reviews previous research that address these manifestos, particularly those examining the relation between them. After examining the understanding developed by these studies by comparing them with the original manifestos, other texts by Haraway are analyzed to examine her concept of the cyborg. In particular, published interviews of Haraway recorded before the new manifest provide significant information. Furthermore, this study elucidates how both manifestos include a common inclination to create a specific type of solidarity as its example.

1. The Two Manifestos

"A Cyborg Manifesto" was written by Haraway on an assignment for the editors of *Socialist Review*; she examined the history of primatology as a socialist feminist who had studied biology. Responding to the request to write five pages on socialist-feminist priorities during the 1980s, Haraway described contemporary scientific and technological circumstances as boundary breakdowns—between the human and the animal, the organism and the machine, and the physical and the non-

physical—and informatization. Existing feminism had not offered a satisfactory solution to the pressing problem: the existing identity of women could be no longer regarded as obvious, essential, or integral. In contrast, informatization—particularly that promoted by microelectronics and biotechnology—could lead to a new type of control symbolized by politics and economy in the Reagan years. Then, Haraway explored how women can survive in and against the informatics of domination, providing the cyborg as political identity as her answer to this question.

“Cyborg” has been coined from the words “cybernetic” and “organism” and was a familiar image in science fiction in the 1980s. Haraway indicates the social context of cyborg creation in 1960: the space race, the Cold War, and imperialist fantasies of techno-humanism built into policy and research projects. She wrote that she wanted “to inhabit cyborgs critically [...] neither in celebration nor condemnation, but in a spirit of ironic appropriation for ends never envisioned by the space warriors” (Haraway 2003, 4). The statement “we are all chimeras [...] we are cyborgs” (Haraway 1991, 150) inspired literary as well as feminist critics, and the manifesto was often referred to as literary theory, especially in works related to the cyberpunk genre. Beyond literary criticism, feminists valued it as a useful exploration of the self and body image.¹ As a result, Haraway’s discussion of the cyborg came to be considered the greatest of her works as well as one in the history of primatology.

By contrast, Haraway’s second manifesto initially seems to deal with quite different entities. Its subject is a dog that Haraway chose to write about 20 years after the first manifesto. Her description of the relationships between dogs and humans often bears emotion; she expresses her intimacy with dogs by repeatedly quoting essays that illuminate her own experiences. Her discussion seems naïve and anthropomorphic, while she qualifies her love for dogs being different from the concept of love commonly accepted in the US that people love dogs as their children in return for unconditional love from dogs, which is never provided by humans. She maintains that long-standing relationships between different species are an outcome that is neither completely by nature nor completely by culture and that we can learn an ethics and politics committed to significant otherness from such a relationship, i.e., cohabitation, coevolution, and cross-species sociality.

To understand interspecies relationships, Haraway created the concept of companion species. Although she emphasizes that this is not limited to companion animals and includes various entities, it is still difficult to understand the concept because her definition of it is figurative and indirect. Further discussion can be found in the book *When Species Meet*, published four years after *The Companion Species Manifesto*; however, the fact that it appends yet more examples of companion species obstructs a simple comprehension of its complete meaning. As a result of her writing on dogs, Haraway’s position, expressed in her new manifesto, on issues such as relationalism and criticism of the nature/culture dichotomy is

1 See Nitta (2004), who also refers to the conflict between constructivism and essentialism in feminism.

often read and referred to in ecological and anthropological contexts.²

Although contributions to ecology are part of the new manifesto's significance, evidence suggests that this is merely one aspect and other aspects should not be minimized. As mentioned above, Haraway considers various entities to be companion species, including not only animals and microbes but also tools and technologies. It is difficult to explicate her discussion of these entities in terms of environmental studies alone. Furthermore, that companion species are conceived to have some sort of connection with the cyborg is an important fact, which Haraway explicitly notes in the first section of *The Companion Species Manifesto*:

“This is not my first manifesto; in 1985, I published “The Cyborg Manifesto” to try to make feminist sense of the implosions of contemporary life in technoscience.” (Haraway 2003, 4)

After a brief summary of the former manifesto, Haraway considers which of the cyborgs or companion species might more fruitfully inform livable politics and ontologies in current life worlds. She chooses the latter after focusing on the difference between them:

“I appropriated cyborgs to do feminist work in Reagan’s Star Wars times of the mid-1980s. By the end of the millennium, cyborgs could no longer do the work of a proper herding dog to gather up the threads needed for critical inquiry.” (Haraway 2003, 4)

At first glance, this statement gives the impression that her theoretical standpoint has drastically turned. In fact, most studies referring to either of her two manifestos ignore the other; feminist studies and environmental studies seem to have little interest in *The Companion Species Manifesto* and “A Cyborg Manifesto,” respectively. Where there is any interest, in both, scholars hold that Haraway renounced the cyborg stance. For instance, N. Katherine Hayles argues that “the cyborg no longer offers the same heady brew of resistance and co-option” because it has been superseded by new technologies constituting technoscientific networks (Hayles 2006). Similarly, Keita Hatooka asserts that Haraway’s new manifesto declares the critical paradigm of the cyborg to be expired (Hatooka 2007, 96).

However, these interpretations may be questionable because of their treatment of the expiration cause; they do not show why the cyborg has become outdated or give any explanation beyond those already included in Haraway’s original text. Remarkably, concrete facts and explanations in this direction in *The Companion Species Manifesto* are rare. Hence, the literature should be scrutinized to elucidate why the cyborg has been replaced and whether it has expired.

This uncertainty of previous studies is also supported by Haraway’s statements. Despite the limits of the cyborg in *The Companion Species Manifesto*, she uses the cyborg concept in *When Species Meet*. In this book, cyborgs seem to be

2 Enomoto (2014) is a typical case in contrast to Tsing (2012), which Haraway appraises.

described as functioning figures, along with dogs, rather than being obsolete; this implies the probability of the cyborg and the companion species being continuous rather than separate. In addition, Haraway noticeably emphasizes the common traits of as well as the differences between cyborgs and companion species.

These figures are hardly polar opposites. Cyborgs and companion species each bring together the human and non-human, the organic and technological, carbon and silicon, freedom and structure, history and myth, the rich and the poor, the state and the subject, diversity and depletion, modernity and postmodernity, and nature and culture in unexpected ways. Besides, neither a cyborg nor a companion animal pleases the pure of heart who long for better protected species boundaries and sterilization of category deviants. (Haraway 2003, 4)

Thus, this present study reconsiders the transition of and relation between the two concepts of cyborg and companion species. While previous studies have recognized that Haraway's works fundamentally criticize technophobia and the dichotomy nature/culture, the relation between her two manifestos has been either overlooked or misinterpreted. To elucidate this, it is necessary to analyze the two manifestos more closely along with her further publications.

2. Has the Cyborg Become Futile?

Another statement in a published interview of Haraway seems to be the basis of the assertion that cyborgs have expired.³ This interview, published in 2004, was recorded in 1999, so it can be reasonably considered representative of her awareness when she developed the idea of companion species. In a reply to the question concerning the danger of cyborgs losing their critical potential, Haraway admits considering "that as an oppositional figure[,] the cyborg has a rather short half-life" (Haraway 2004, 326). Moreover, she agrees the number of projects where critical cyborgs can work are lesser now than the number when "A Cyborg Manifesto" was written because of the changes in the technological environment, such as the emergence of the Internet.

However, certain statements can be found in the same interview that show why the extinction of cyborgs is doubtful. Haraway remarks that cyborg figurations have mostly never been oppositional or liberational; that is, the concept of cyborgs had a limitation since its inception. However, she explicitly concludes that "cyborg figurations can continue to do critical work" (Haraway 2004, 327). These statements suggest that for Haraway even with its limitations, the cyborg concept has not had its critical function depleted.

To precisely understand Haraway's evaluation of cyborgs, it is significant to

3 For instance, Nagano (2013) referred to it in the translator's afterword of the Japanese edition of *The Companion Species Manifesto*.

examine the use of the concept of cyborgs. Interestingly, there are also suggestive remarks in interviews recorded during the period between “A Cyborg Manifesto” and *The Companion Species Manifesto*. The most important of these is the application of the cyborg on two levels. One is described as a meta-category, i.e., a generic term for many sorts of entities. With these entities, such as primates, the OncoMouse (a genetically engineered laboratory mouse), the FemaleMan, and dogs, Haraway illustrated hybridity, impurity, and contamination composed by nature and culture, object and trope, fact and fiction, and materiality and semioticity.

Cyborgs are also one of these entities. Haraway re-emphasizes the specificity of the cyborg as follows:

“Moreover, the cyborg involves a physicality that is undeniable and deeply historically specific. It is possible to extend the cyborg image into other historical configurations, allegorically or analogically, but it seems to me that it had a particular historical emergence. You can use it to inquire other historical formations, but it has a specificity.” (Haraway 2004, 323)

In short, her cyborg in this sense “does not refer to all kinds of artifactual, machinic relationships with human beings” (Haraway 1999, 128). She associates it with the historical background, i.e., militarization and specific research projects tied to psychiatry and communications theory, behavioral research, and psychopharmacological research, theories of information and information processing from the period of World War II and just after. This consistently explains the relation between historical changes in circumstances and the limit of the critical potential of cyborgs, which has already been confirmed by this study.

By contrast, this specificity can hardly be tied to a meta-category. However, this is the very level where the cyborg was replaced by the companion species.

“I have come to see cyborgs as junior siblings in the much bigger, queer family of companion species.” (Haraway 2003, 11)

Significantly, this sentence represents not only a transition of but also an inclusive relation between the two. In addition, Haraway already considered the cyborg as a meta-category to be inappropriate before she created the term “companion species.” She remarked on this in the following lines from the 1999 interview:

“Well, sometimes the cyborg functions as a meta-category, but I am actually much happier to denote it to one of the litter. Sometimes I do end up saying these are all cyborg figures, but I think that is a bad idea.” (Haraway 2004, 332)

In contrast to “the cyborg *was* a figure that collected up many things” (Haraway 2004, 322; italics mine), it is found *not to be* such a figure any more. Various terms provided by Haraway to the meta-category also elucidate that she was seeking a

more suitable one, such as “boundary creatures” (Haraway 1991, 2), “material-semiotic entities” (Haraway 1997, 12), or “menagerie of figurations” (Haraway 1999, 135). Moreover, this indicates that she was already employing the “queer family” (Haraway 2004, 332) before *Companion Species Manifesto*.

Previous studies confound the transition of the label to collect several sorts of entities with the historical specificity of one of them. Some studies noticed the two levels of the categories, but it is nevertheless incorrect to associate the emergence of companion species with the expiration of the cyborg. The critical potential of the cyborg has not vanished and is still worth exercising.

3. Solidarity as Retained Significance of the Cyborg

Why have some studies lapsed into an incorrect understanding of Haraway’s works although the common intention of her works to implode the nature/culture dichotomy has been amply recognized? The reason stems from focusing too much on the figures selected as topics by Haraway. Her topics and emphases have superficially changed throughout her career, but the principal aim of her works has not been altered. It is inappropriate to prescind the discussions of companion species from her former works on cyborgs to clarify their common intention at a fundamental level.

This paper takes as an example the ethics of worlding, emphasized by Haraway in her discussion of companion species. She declares in the first section of her book that a purpose of the *Companion Species Manifesto* is to study ethics and politics for significant otherness in dog–human relationships. In *When Species Meet*, this ethics and politics are referred to as becoming with, or the practice of becoming worldly. In other words, it is a trial to see how multiple species can live together in the same world. Here, such relationships are not restricted to the ones between humans, meaning that not only intimate but also inexorable relationships have to be discussed, such as animal experiments and meat eating. Haraway ultimately upholds such relationships by insisting that they are not unfreedom or violation per se and that it is more important to “learn to kill responsibly” (Haraway 2007, 81). However, it seems difficult to align the defense of instrumental relationships with her intention to pursue “how worldly actors might somehow be accountable to and love each other less violently” (Haraway 2003, 7).

In what sense can these be consistent for Haraway? To answer this, it is useful to indicate that her arguments imply the criticism of a specific type of relationship. The following lines appear before her discussion of companion species:

“I am sick to death of bonding through kinship and “the family,” and I long for models of solidarity and human unity and difference rooted in friendship [...] It’s time to theorize an “unfamiliar” unconscious, a different primal scene, where everything does not stem from the dramas of identity and reproduction. Ties through blood [...] have been bloody enough already. I believe that there will be no racial or sexual peace, no

livable nature, until we learn to produce humanity through something more and less than kinship.” (Haraway 1997, 265)

Haraway commented in a later interview that her criticism is placed in a hierarchy of intimacy where reproductive, one-to-one relations hold supremacy. The demotion of other kinds of intimacy is unacceptable to Haraway because they constitute the world where we are immersed, in which they are absolutely fundamental. This recognition provokes her to reevaluate the unfamiliar, i.e., that which is other than the nuclear family and kinship by blood. It is noticeable that she already had a yearning for “models of solidarity and difference rooted in friendship” (Haraway 1999, 125). Besides, this friendship includes connections to nonhumans, and relates to the deathliness as well as the liveliness; it is described as the affirmation of dying not as the glorification of death but as the fact that “without mortality, we’re nothing” (Haraway 1999, 116). This recognition of instrumental relationships with animals is the basis for Haraway’s evaluation.

Moreover, a project based on the same intention can be traced back to the period of “A Cyborg Manifesto.” In parallel with the argument of informatization, Haraway repeats that unity is necessary. However, in the confrontation with the dominations of race, gender, sexuality, and class, the logic of identification cannot provide a basis of unity, due to the revelation of the social and historical constitution of identities.

“The recent history for much of the US left and US feminism has been a response to this kind of crisis by endless splitting and searches for a new essential unity. But there has also been a growing recognition of another response through coalition—affinity, not identity.” (Haraway 1991, 155)

Affinity, that is, relation “not by blood but by choice” (Haraway 1991, 155), is recognized to be an effective alternative here. Focus on the context requiring cyborg imagery shows that “A Cyborg Manifesto” has the property of a project pursuing solidarity by means of affinity. In contrast to the pursuit of self-image in the era of informatization or of the political empowerment of women, solidarity by affinity has rarely been thematized by other researchers, even after Haraway explicitly indicated this ethical pursuit in her discussions of companion species.

The continuity of intention is also exemplified by the argument about the subject. Quoting anthropologist Anna Tsing, Haraway criticizes human exceptionalism in *When Species Meet* as involving the assumption that human nature is essentially constant. Her insistence on the necessity of imaging the variability of human nature parallels the proposition of cyborg imagery that lives through the era of the fracturing of existing identities mentioned above; in both cases, she considers an inevitable connection between creating solidarity and reconsidering the subject. This viewpoint suggests that arguments associated with cyborg figuration, such as the ontology of the subject, can be utilized for problems of human–nonhuman relationships. In fact, anthropologists after “ontological turn”

commence to be inspired by this implication in Haraway's recent works and apply it to their own research⁴. Ethicists may also be theoretically contributed by Haraway's discussions where they apply the ethical implications of companion species to animal ethics or environmental ethics.

Examining these facts clarifies that the discussion of companion species not only concerns the ethics of how to deal with animals or the environment but also a broader philosophy of difference and solidarity. The metaphors Haraway uses, such as "queer family" (Haraway 2003, 11), "aberration" (Haraway 2003, 3), and "perversity" (Haraway 2007, 193), exemplify human-animal relationships as possessing intimacy and love and are a critical mockery of reproductive heterosexual hegemony over the idea of love rather. The consideration of solidarity with animals contributes to feminist interest, while by contrast, the cyborg offers a useful vision for constructing solidarity with various entities. Her more recent metaphors, such as "messmates" (Haraway 2007, 301) and "riding along with" (Haraway 2007, 253), represent her continuous interest in this solidarity. Further examination of the implications that the two manifestos have in common and of their mutual relevance are required to fully actualize the critical potentiality of Haraway's works.

Conclusion

This study problematizes those studies insisting that the recent works of Haraway are a renunciation of her older cyborg concept, simply replaced by the new concept of companion species. Haraway admitted the critical potentiality of cyborgs and continued to use the concept; hence, changing the name of the meta-category of various entities was a mere superficiality. Creating solidarity to replace heteronormativity and human exceptionalism was indicated as a feature that represents the continuity of intention in her works. The discussion of companion species, when connected to the cyborg concept, provides a broader philosophical basis for the consideration of difference and solidarity.

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4 "Multispecies ethnography" (Kirksey and Helmreich 2010) is one of the typical movements.

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The Ethical Implications of Strategic Fouling

Franklin ABAD

Introduction

Fairness has often been considered an essential feature of any sport. Athletes are expected to abide by their game's rules. Players who abide by the rules are considered fair and those who break them are labeled cheaters. This idea of fairness can be derived from the game's constitutive rules and how those who to partake in the game choose to accept the rules of their game. The act of cheating is defined as the violation of the game's written rules with the intention to gain an illicit advantage for oneself or for one's team. Cheating need not be intentional nor be unfair, which brings us to this particular issue in sport: Strategic Fouling.

In basketball, late game fouling comes into play when a team is down on points and desires to prolong the game to increase their chance to catch up. In fouling the opposition, they stop the clock and ensure that they get another possession. Another thing to note is how the losing team must intentionally foul the opposing team's ball handler. Ideally, the strategy is applied when the losing team is already in a penalty situation. Here, any fouls they commit will send opponent's ball handler to the free throw line for two shots. The fouls committed by the players must also be in view of the referee to ensure that the violation is called. Given this tactic, sports ethicists face various dilemmas concerning the fairness of the strategy. Do we consider the strategic use of fouls as an act of cheating or is it an acceptable strategy that fits our previous notion of fairness as the adherence to the rules?

1. Paradigm Examples of Cheating

Before we delve into a deeper discussion about strategic fouling, let us examine some clear cut cases of cheating. Our first case of cheating in sports happened in the 1999 Comrades Marathon, an 89 kilometer race in the South African KwaZulu-Natal province. Runner Sergio Motsoeneng and his brother Fika exchanged vests and shoes in a mobile toilet along the route¹. Motsoeneng finished ninth and received a prize amounting to 6000 rands. However, the brothers were caught after a newspaper published photos showing them wearing watches on opposite hands. The brothers were then suspended by Comrades Marathon Association for 10 years. In 2010, eleven years after his ban, Sergio Motsoeneng ran the marathon again and

1 Hauman, R. "Positive A Sample for Comrades 3rd Placer Matsoeneng." *Runner's World*. July 19, 2010. Retrieved from <http://www.runnersworld.com/trails/positive-sample-comrades-3rd-placer-matsoeneng> (Accessed November 11, 2014)

finished third. Sadly, controversy found him again as he tested positive for a banned substance. The repeated acts of rule violations further destroyed Motsoeneng's reputation in the marathon scene.

Our second and popular case of cheating in a marathon happened during the 1980 Boston Marathon. Rosie Ruiz, a Cuban immigrant, appeared to finish first with a time of 2:31:56.² However, there was huge speculation with Ruiz as experts doubted her massive 25 minute improvement from her past finish in the New York City Marathon. Other experts noted how Ruiz did not recall things such as intervals and splits, concepts that would be known to experienced marathoners. Casual observers also noticed that Ruiz was not panting or coated in sweat, and her thighs were much flabbier and fatter than what would be expected for a world-class runner. As the investigation into her case progressed, witnesses came forward, such as checkpoint spotters who did not remember seeing her in the first group of females. Race officials found that Ruiz was absent from any pictures or video footage. The investigation also caused speculation regarding Ruiz's time for the New York Marathon, a race which qualifies runners for the Boston Marathon. The strongest evidence against Ruiz came from two Harvard students who recalled seeing Ruiz burst out of a crowd of spectators on Commonwealth Avenue, half a mile from the finish. Boston Athletic Association eventually banned Ruiz and awarded the second place finisher as the real winner of the marathon's female category. This incident is very similar to Motsoeneng's case as both he and Ruiz wanted to win by using methods that would make their race shorter. They both used deception and literal shortcuts to gain the rewards and accolades reserved for victors.

A similar case of deception has also happened in the 2000 Sydney Paralympic games. In these games, Spain's contingent of basketball players won gold medals. However, in November of that year, Carlos Ribagorda, a member of gold medal-winning team, claimed that he and other athletes in categories such as track and field, table tennis and swimming were not mentally deficient³. Ribagorda at one point claimed that during a tournament game against China where they were up by 30 points, their coach told them to lower their level of play or they will be discovered as not disabled. This scandal led Spain's head for mentally handicapped sports to resign. The team was also forced to return the medals. As a result of this scandal, the category of intellectual disabled basketball was removed from the Paralympic program after the 2000 Games.

The three examples given are very clear instances of cheating through the violation of the event's constitutive rules. We can even say that acts of deception were the primary method used in these rule violations. The Motsoeneng brothers, Rosie Perez and the Spanish contingent all procured illicit advantages that cannot

2 The History Channel. "Rosie Ruiz fakes Boston Marathon win." n.d. <http://www.history.com/this-day-in-history/rosie-ruiz-fakes-boston-marathon-win> (Accessed Nov 11, 2014).

3 Tomlinson, S. "Man that led shameful Spanish basketball team who pretended to be disabled to win Paralympic gold found guilty of fraud." October 14, 2013. <http://www.dailymail.co.uk/sport/othersports/article-2459172/Spanish-basketball-team-pretended-disabled-win-Paralympic-gold-guilty-fraud.html> (accessed November 11, 2014)

be overcome by their opponents. Their acts of cheating were also done in hopes that they will not be caught. However, after being caught, they all faced heavy penalties, the forfeiture of medals and the humiliation that went along with their dishonorable conduct. Although the three cases showed cheating in a very clear sense, how are we supposed to treat instances of strategic fouling?

2. Is Strategic Fouling Ethically Acceptable?

Strategic fouling is an intentional violation of the rules for a competitive advantage. Philosopher of sport Robert Simon (2014, 77-78) wrote that critics of strategic fouling argue that athletes have become so consumed by the pursuit of victory to point of embracing highly questionable tactics in an effort to win. Simon noted that in this view, the prevalence of strategic fouling is evidence not of smart play but of the corruption of athletic competition. Players have become so focused on winning by any means. Although most athletes still accept the practice of strategic fouling, some philosophers have maintained that strategic fouling is a form of cheating and is therefore unethical.

However, there are some philosophers who contend that there is such a thing as a “good foul”. For Warren Freleigh, good fouls⁴ are when players violate the rules for a temporary advantage. These violators also accept whatever penalty is given to them as a result of their violation. Despite this, Freleigh maintained that ‘good’ fouls are still considered cheating because it violates the agreement between participants, wherein they agree to play their sport and pursue the necessary and allowable skills and tactics while also avoiding the use of forbidden moves and strategies.

This treatment of cheating brings us back to how formalists express great emphasis on the rules. Formalists believe that games are characterized by their formal structures and their constitutive rules. The goals or obstacles of the sport are defined by those rules and are unintelligible outside the context of the rules. For formalists, cheaters stop playing the game when they employ illicit tactics, as they fail to honor the agreement to follow the games rules. (Simon, 2014, 41-42)

However, Simon (2014, 78) noted that the formalist position can be seriously questioned as it does not give any weight to conventions associated with specific sports. Such is the case of strategic fouling in basketball, as players understand that losing teams will foul at the end of the game to stop the clock. Virtually all players expect the losing team to foul to stop the clock when such behavior is strategically appropriate. The players even expect it of themselves and of their opponents. Similarly, in soccer, the goalies generally try to move into position a bit more quickly than the rules allow, reducing the shooter’s angle for a favorable shot.

On the other hand, Simon also pointed out that just because such behavior is conventional, it does not make it morally right or in the best interests of the game.

4 Tamburrini, Claudio. 2010. The “hand of God”. In McNamee, M J., ed. 2010. The ethics of sports: A Reader. London: Routledge.

Just because certain social conventions are deemed tolerable, it does not follow that these conventions are also legal. However, strategic fouling is quite different from the clear cut examples of cheating we previously discussed. Simon further expounds on this:

Nevertheless, if cheating means violating a public set of norms to gain an advantage for oneself or one's team, and these norms include conventions as well as rules, then strategic fouling is not always a form of cheating. This is partly because conventions exist that sometimes made such behavior normal and expected. But, more importantly, it is also because the strategic fouler acknowledges such behavior is appropriate for all participants, including opponents. This is quite a different situation from that of the cheater who, say, wants to get an advantage by falsifying the scorebook, behavior that could not possibly be made universal without destroying the game itself. In addition, strategic fouling, [...], is done openly. The strategic fouler in basketball in fact wants the referee to call the infraction, stop the clock, and award compensatory foul shots to the other team. (2014, 78)

Aside from the fact that strategic fouling is accepted among basketball and soccer players, Simon mentioned that this particular strategy is different from the previous examples of cheating because when performed, these strategies do not change how the game is played with respect to the rules. When basketball players foul opponents during the end of games, the violations they commit are still within the rules and the game of basketball continues to be played. This is different from Ruiz's act of cheating to take first place in the Boston Marathon. A formalist can even conclude that that Ruiz did not even run the marathon because she rode the bus to get closer to the finish line.

Another thing Simon points out is how those who employ strategic fouls, unlike cheaters, tend to show their violation of the rules rather than hide it. In the paradigm cases of cheating, Motsoeneng, Ruiz and the Spanish team attempted to deceive officials and cover their tracks. But when players strategically foul, they know that they will be caught and that they will be penalized for the violation they incurred.

Conversely, Simon (2014, 78) noted that Freleigh and other formalists maintain that conventions are too vague to form a basis of the common understanding presupposed by players who commit themselves to respecting the game. To illustrate this, Simon examines the common understanding in international soccer that goalkeepers can bend the rules, such as the time when Brianna Scurry violated a rule limiting the goalies' movement to block her Chinese opponent's game winning shot. Simon asked if there really is a common understanding in sports where players are welcome to bend the rules. In his attempt to answer, Simon provides a case brought up by Sigmund Loland and Mike McNamee. He writes:

In a major soccer competition in England between Arsenal FC and

Sheffield United, when an Arsenal player became injured, a Sheffield United player, following the prevailing convention, deliberately kicked the ball out of bounds so that during the ensuing pause in play the injured player could receive medical treatment. According to the convention, once the ball is back in play, the receiving team, in this game Arsenal, would turn the ball over to the opposition so Sheffield would suffer no competitive disadvantage. But this time, according to Loland and McNamee, an Arsenal player, a recent recruit from another continent (and presumably a different cultural setting) “intercepted the ball, crossed it to one of his teammates, who instinctively (so it is said) . . . scored.” Apparently the understanding of the convention was not common to all players. Similarly, in the women’s World Cup situation, for example, perhaps the Americans, the Chinese, and the World Cup officials did not all understand Scurry’s strategy in the same way. If that is the case, then her decision to use the strategy would seem ethically questionable, whereas it would seem more appropriate if all these participants shared the same view of it as an example of a convention that was commonly accepted. (2014, 78-79)

Because conventions are not commonly understood, it would be difficult to justify strategic fouling as ethically acceptable. It is possible that if strategic fouling is considered a convention. For example, not all participants of basketball would understand the use of this tactic. Despite this, Simon reiterates that strategic fouls are very different from paradigm examples of cheating. Players who employ this tactic conform to the general practice that they also condone it even if it works against them.

On the other hand, cheaters break the rules in ways others would not try to copy, such as when Mike Tyson bit Evander Holyfield’s ear or when Tonya Harding allegedly hired a goon to attack Nancy Kerrigan to force her out of the 1994 US figure skating championships. Simon added that cheaters could not reasonably want such violations to be part of the public system of rules governing the sport.

This reminds us of Kant’s deontology, where a person’s action must be made universal to be considered a good. The cheater would not want his or her act to be considered universal, mostly because the advantage they gain from performing an illegal, say a low blow in a boxing match, would no longer be exclusive to them. If everyone were allowed to hit below the belt, every boxer would incorporate that strike in their game plan, making the playing field fair, albeit at the cost of risking each other’s health.

Even though strategic fouling is may not be considered cheating, Simon (2014, 79) writes that it may be morally unacceptable on other grounds. In light of the low blow example, allowing that particular move would add more health risks to the sport of boxing. If strategic use of low blows becomes a prevalent convention, boxers will now be exposed to an increased risk of becoming sterile. This example proves that just because a behavior or practice is considered conventional, it does not necessarily follow that it will be considered ethical.

Another aspect that Simon explores is how players may look at the penalties for violations not as sanctions but as prices. To explore this idea, we return to basketball. We have established that one way to strategically foul in this sport is by using the penalty situation during the last two minutes of the game to prolong the game and ensure a final possession. Simon (2014, 79-80) writes that proponents of strategic fouling argue that strategic fouls are part of the game because free throws, an explicit penalty, are provided for in the rules. In contrast, Simon mentions the position of Kathleen Pearson. She pointed out that the obvious rebuttal to this view is that penalties for breaking the law are contained within the law books, but no sensible person concludes that all acts are within the law.

Simon (2014, 80) clarified Pearson's position, stating that no one would say that murder is allowed just because there are prescribed penalties to it such as life imprisonment or the lethal injection. But Simon asks whether Pearson's position is decisive. He added that the parallel drawn between sanctions in law, such as punishment for criminals, and penalties for strategic fouls is questionable. Some penalties in sport do not correspond to certain criminal sanctions enforced by the law. Simon said that a jail sentence for a crime should not be thought of as the price the law charges for a particular act, such as a felony. This would cause the crime a permissible option for criminals who are willing to go jail in case they are caught. To put it simply, a felony is a prohibited act, and a jail sentence is not the price for allowable commission of the act but rather a punishment for committing it.

However, Simon (2014, 80) added that the law sometimes sets a fee for certain actions to be permissible. This is the case when a person pays fees to procure a driver's license. It would not be an acceptable notion if one would consider the fee for their license as a punishment or penalty for driving. Rather, it is the price to pay so that one can legally drive a car. In the same sense, not all penalties in sport are punishments or sanctions for prohibited acts. Some penalties can be considered the price for exercising a specific strategic option. An example he provided is the stroke penalty used by golfers when they have to extract their ball from an unplayable situation. Under a penalty of one stroke, the golfer will be allowed to drop the ball within two club-lengths of the spot where the ball lay, but not nearer the hole. Simon added that this particular rule is explicitly designed to allow play to continue but it also compensates ones competitors for the opportunity to move the ball without making a golf stroke.

Given that example, can we clearly say that the penalties for strategic fouling are indeed prices, or are they still considered punishments? Simon explained that if penalties for strategic fouls, such as free throws in basketball or free kicks in soccer, can be regarded as prices rather than sanctions for violating a rule, then strategic fouling can be considered ethically permissible. If such were the case, there would be a difficulty in determining whether a penalty should be regarded as a sanction or a price.

To resolve this dilemma, Simon (2014, 80) proposed the idea of a fair price to help us differentiate sanctions from prices. The idea here would be that if a pricing penalty is fair in sports, then it should provide an unbiased compensation to the opposing player or team. The two free throws awarded to the basketball player

who has been intentionally fouled in during the dying minutes of the game are considered a price rather than a sanction. Simon suggested that sports organizers can also clarify this by making the penalty for prohibited acts more severe. One case would be in the NBA, how players on the bench cannot step on the court if an altercation among the players in game happens. If a player violates this rule, they are suspended for a minimum of one game and are fined up to \$50,000⁵.

Simon added that our analysis of strategic fouling in basketball rests on a broad internalist theory⁶ that views foul shots as a fair compensation for employing such a tactic. A good team should be able to convert the foul shots and be no worse off than before the infraction was committed. Inability to convert the foul shots indicates a weakness that rightly puts that team's lead in jeopardy.

Simon (2014, 81) further explores this idea by going back to Scurry's strategic foul. He tells us that the penalty for illegal movement by the goalkeeper allows the shooter to make another attempt to score if the original shot was missed, so the rules call for restoring the situation the way it was prior to the violation. Simon suggested that in this situation, the penalty is more of a price rather than a sanction. He also noted that officials rarely call the violation Scurry committed. In that situation, the officials should have been stricter in enforcing the rules. However, there could also be the possibility that they either missed the infraction or intentionally ignored it. Simon also ponders the possibility that referees rarely call this violation because they believe the shootout is more in favor of the offense and that goal keepers have a very minimal chance of stopping the shot without moving illegally.

If this is the case, when the referees refrain from calling all but blatant goalkeeper violations, they may be attempting to restore competitive balance to what they regard as an unfair restriction imposed by the rules. On the other hand, Simon also wondered whether strategic fouling is less acceptable in a low-scoring game such as soccer than in a high-scoring game like basketball, where one play has less effect on the ending of the game. This question opens up further discussion on the ethics of strategic fouling in other contests.

3. Arguments against Strategic Fouling

Although the "fouls as prices" thesis shows promise, Simon noted that there are still detractors to this view. One criticism Simon (2014, 82) brings up is Warren Freleigh's latest argument against the tactic. Freleigh's position relies on a distinction made by Cesar R. Torres between a sport's constitutive skills and its restorative skills. Torres wrote that the constitutive skills are the abilities that the game is designed to test. For example, in basketball the constitutive skills would

5 Official Rules of the National Basketball Association. Section VII c.

6 Broad Internalism is the view that combines both a sport's constitutive rules with other resources connected closely to sport that are neither social conventions or moral principles that mirror the dominant morality in society.

include layups, dribbling, jump shots, rebounding and blocking shots. Restorative skills are those that are used to restore the status quo after a rules infraction has been committed. These include shooting free throws in basketball and taking a penalty shot or a free kick in soccer.

Torres argued that constitutive skills normally require more complex abilities to execute and are more interesting than restorative skills. Consequently, running a fast break in basketball is more complex, difficult, and entertaining than shooting free throws. Similarly, running the bases intelligently in baseball is more complex, difficult, and interesting than being awarded a base as compensation for a fielder's interference with a runner.

Freleigh argued against Torres view by stating that strategic fouling ruins the game by making the less complex and less difficult compensatory skills more central to the game's outcome. Simon added that this maybe the reason why fans at a basketball game will feel the game has been made boring or has been ruined by referees who call fouls excessively. He mentioned how fans would yell "let them play" to make it known that they do not regard foul shooting as being as interesting or as central to the game as the more complex basic skills exercised in the normal course of play. Freleigh also added this tactic will regularly deprive a player of an advantage they have earned through excellent use of basic skills, as when a hockey player, who has been fooled by the brilliant skating move of an opponent, trips the opponent from behind to prevent a breakaway shot on the goal.

Simon (2014, 82) commented that Freleigh's argument echoes the broad internalist position as it promotes an interpretation of which skills are the most important in a sport. It also indicates why it is important to keep those skills at the center of play. For Freleigh, even though it is not cheating, strategic fouling shows a fundamental disrespect for the quest for excellence and too much importance on winning, to the point that it harms how the game should be played.

Although Freleigh's argument carries some weight, Simon argued that not all exercises of restorative skills are routine or require less skill than constitutive skills require. He wrote that in Ice Hockey, running an effective power play requires the use of both physical and mental abilities of a high order. Yet, the power play is a restorative skill because it compensates an offended team for a violation by the opposition. In basketball, shooting free throws are also considered to be difficult. These shots take hours of practice to perfect while also requiring the player's immense mental concentration, especially in close games where the shooter is under a massive amount of pressure to make the shot. Any player who has to shoot pair of game clinching free throws has his composure and shooting form tested to the highest degree.

Although we recognize that restorative skills are a key element in games, Simon argued that these skills should never be the focus of a team's strategy in determining outcomes of games. To illustrate this point, he provides a situation where two teams who are meeting for the third time in a basketball season. He writes:

Team A won the first game by three points, and Team B won the second

by four points. So far, in the third and deciding contest, the teams are evenly matched. Suppose that it is evident from all three games that the two teams are evenly matched in constitutive skills. However, Team B is awful at foul shooting, a restorative skill. Team B has possession of the ball and is ahead by two points, with ten seconds to go. Team A's coach realizes that his squad has little chance of stealing the ball and scoring in only ten seconds. He orders his team to strategically foul in order to stop the clock, reasoning that if the poor foul shooters on Team B miss, his team will have a chance to at least tie the game. (2014, 82)

In this situation, we see that the constitutive skills dictate how the game is played. The option to strategically foul is only used in specific situations. Fouling in basketball is not as a primary method to play defense. If such were the case, basketball coaches and players would no longer work on their defensive schemes as fouling will become the first option once the opponent receives the ball. In reality, teams practice drills that improve their defensive footwork. The coaching staff of a basketball team also includes a defensive specialist who helps the head coach tighten a team's defensive deficiencies. That specialist also works on the team's fundamentals, improving each player's defensive stance and reaction time.

With that in mind, Simon believed that regarding the strategic use of fouls as unethical or as a way to ruin the game is uncalled for. After all, if we are trying to determine the better team and both are even in terms of constitutive skills, why can't we include restorative skills as a determining category? If teams A and B display an equal level of constitutive skill but team B is clearly better at the restorative skills, isn't it easier to say that team B is the better one?

Simon also found it difficult to see how fouling during crucial situations ruins the game or makes it less interesting than simply letting a team run out the clock. In fact, game winning situations that arise from the use of the strategic fouls, such as shooting a pair of game clinching free throws, add a lot of tension to the game and can even increase the excitement of fans and players.

Although our example shows that strategic fouling can only be ethically defensible in certain situations, Simon does noted that it suggests the following thesis. He writes:

According to the Strategic Fouling Thesis, strategic fouling is permissible in a competitive athletic contest when the following four conditions are satisfied. First, the teams playing have demonstrated, perhaps by the closeness of the contest, that they are roughly equal or well matched in constitutive skills. Second, the team that strategically fouls has no other strategy based on the use of constitutive skills that gives it a reasonable chance to win. Third, it must be reasonable to regard the penalty for the strategic foul as a price rather than a punishment. Last, the foul must not take away a major advantage earned by the use of constitutive skills, such as would be the case if a hockey player on a breakaway was tripped from behind. (2014, 83)

Given this thesis, Simon added that in close contests, especially in sports like basketball, the selective use of strategic fouls may be morally acceptable and can also increase the challenges faced by the athletes. However, distinguishing between the indiscriminate and selective use of fouls remains important. Situations where a team decides to simplify the whole game through strategic fouls does not satisfy Simon's strategic fouling thesis. To further illustrate, Simon tells us of a hockey team that is clearly inferior to its opponent in terms of shooting and skating skills. If that team indiscriminately uses fouls to take away their opponent's advantages in skill, they would have turned the game into a wrestling match and prevented their opponent to demonstrate their constitutive superiority.

A complex case to test this thesis involves the use of the "Hack-a-Shaq" strategy in the NBA. Although the strategy has been popularly linked to Shaquille O'Neal, the "Hack-a-Shaq" strategy has been used on various players who are known to be poor free throw shooters. The strategy involves fouling the opposing team's worst free throw shooter continuously to hinder their team's scoring ability. The best example of the use of this tactic was when San Antonio Spurs coach Gregg Popovich applied it in the 2008 NBA Playoffs. Popovich used the fouls of his reserve players over the course of the game minimize the opponent's three point shot attempts. He also used this tactic at the end of quarters, when there was around 25 seconds left, to make sure that his team gets the last shot.⁷ In this situation, we can argue that Popovich's take on the "Hack-a-Shaq" play does not satisfy Simon's strategic fouling thesis because its use has the potential to change the way basketball is meant to be played. The tactic reduces a fast paced game, where complex skills like running a fast break or shooting a three pointer, to a game of shooting free throws.

However, the "Hack-a-Shaq" play also highlights a strategic aspect of the basketball where the use of penalties as a price is maximized. A coach must be mindful of how many fouls he has had his players commit while also being aware of his team's performance on the scoreboard. A coach must also manage which of his players would be using their fouls strategically. In effect, the way he exchanges the fouls his team commits to ensure that the opponents will not be able to shoot three pointers at the end of quarters. This tactic also forces the opponent's worst free throw shooter to make his shots count shows. However, the effectiveness of the "Hack-a-Shaq" strategy is also dependent on chance. Although the opponent's worst free throw shooter holds a poor percentage, there are times when that player is able to make a good percentage of his free throws. Some coaches even argue that constantly sending the player who has a poor free throw percentage may cause that player to get in a rhythm, allowing him to make his shots rather than miss them. We can even say that the risk one has to take in using the "Hack-a-Shaq" contributes to the idea that the fouls committed here are fairly priced.

Given the downside of this strategy, its critics still argue that its use destroys

7 Hollinger, John. "Best and worst of the first two rounds of the playoffs." May 16, 2008. Retrieved from http://sports.espn.go.com/nba/playoffs2008/columns/story?columnist=hollinger_john&page=Awards_080516 (Accessed November 15, 2014)

how basketball was meant to be played. It also makes the game unpleasant to watch and shows a team's lack of confidence in their defensive abilities. My argument against this criticism though is that shooting free throws in basketball are not only a restorative skill but also a constitutive skill. After all, a player's free throw shooting percentage has always been considered an important statistic. If such were the case, using the "Hack-a-Shaq" strategy is still defensible as shooting free throws is considered an important skill for all players. If anything, the strategic use of fouls also shows that there are many ways to play the game of basketball in line with its constitutive rules.

Simon's (2014, 84) discussion allows us to conclude that using this tactic cannot be equated to cheating. This is because strategic fouling is based on implied practices that the players have accepted as a convention. On the other hand, cheating involves a player attempting to gain an advantage through the performance of actions that would not be universally accepted by all players. Additionally, strategic fouling also presents itself as a strategic option that is offered by the rules as a price rather than a sanction. One might even say that the tactic opens up new and interesting ways to play the game while also improving the competitive nature of the game.

Given its upside, Simon also believed that use of strategic fouls is open to abuse, especially when a player or a coach decides that the game must be decided through the use of restorative skills rather than the constitutive skills. Although this tactic may sometimes be considered as unethical, judicious use of this strategy can be morally acceptable and may even strengthen the view of sports as tests of physical and strategic skills.

4. Therapeutic Use Exemptions and the Grey Area of Performance Enhancing Drugs

In our discussion of strategic fouls, we mentioned Simon's how strategic fouls can be viewed similarly to license fees. He discussed that laws often include provisions for the payment of fees for actions that are permissible. He added that some penalties in sport should not be considered sanctions but as the price to enact a particular strategy. This is the view held by the strategic fouler. Their rule violation is similar to the act of asking permission to perform a particular strategy and the penalty they receive is more payment than punishment. This idea of asking permissions leads us to the issue of Therapeutic Use Exemptions.

According to the World Anti-Doping Agency (WADA), a TUE is an exemption that allows an athlete to use, for therapeutic purposes, a substance or method included in the prohibited list.⁸ For example, if an athlete suffers from attention deficit hyperactivity disorder (ADHD) and is prescribed by his or her doctor to take Adderall, a psycho-stimulant that is related to other drugs such as methamphetamine, that athlete must apply for a therapeutic use exemption.

8 World Anti-Doping Agency. "International standard for therapeutic use exemptions." Page 5.

Currently, Adderall is banned by major leagues such as the NFL, MLB, NBA and the NCAA. However, a TUE would allow that player to treat his ADHD using the banned substance while also allowing that athlete to continue playing in his league. Given this, the existence of these exemptions raises a few questions. If an athlete has a medical condition, should he be allowed to take a substance that was banned because it enhances performance? The presence of exemptions seems to create a way for athletes to circumvent the rules banning the use of these substances. Is the line between medical treatment and athletic enhancement clear and distinct? Although it may seem easy to declare a line exists, many treatments needing TUEs blur the line between treatment and enhancement.

Such is the case with testosterone replacement therapy (TRT). TRT is a form of hormone treatment prescribed for patients who are suffering from low testosterone levels. Testosterone is the hormone responsible for muscle and bone growth. However, male athletes who suffer from hypogonadism may not be able to train properly, which will in turn impede their capability to compete in their sport. This condition alters some masculine characteristics and impairs normal reproductive function. Complications from it include erectile dysfunction, infertility, decrease in muscle mass, loss of bone mass and fatigue. To train at optimum level, a male athlete suffering low testosterone levels might be prescribed with TRT. The diagnosis of hypogonadism and the prescription of TRT are grounds for an athlete to apply for a TUE. If an athlete receives a TRT exemption, the treatment can restore sexual function and muscle strength and prevent bone loss. Recipients of TRT also experience an increase in energy, sex drive and sense of well-being.⁹

In general, TRT would allow the athlete to recover from workouts and return to his previous level of competitiveness prior to his health condition. However, it is difficult to judge whether TRT counts as a treatment or an enhancement. This is due to the possibility that the athlete undergoing TRT may be able to surpass his previous performances. There is no way to judge whether an athlete's improvement is indeed due to the treatment or if it is just a result of the athlete actualizing his potential.

Given the capacity of this treatment in treating testosterone deficiency, the existence of TRT exemptions highlights other concerns. Since banned substances like synthetic testosterone are used to treat conditions like hypogonadism, are the TRT exemptions granted by the athletic commissions creating a loophole that will allow athletes to use banned substances? These exemptions can be likened to our earlier example of how people can apply for a driver's license. Similarly, athletes can apply for an exemption as long as they satisfy the criteria set by an organization. The following is the World Anti-Doping Agency's criteria for granting a therapeutic use exemption:

9 Mayo Clinic. "Male hypogonadism". Last modified July 10, 2014. <http://www.mayoclinic.org/diseases-conditions/male-hypogonadism/basics/definition/con-20014235> (Accessed November 19, 2014.)

- a. The Athlete would experience a significant impairment to health if the Prohibited Substance or Prohibited Method were to be withheld in the course of treating an acute or chronic medical condition.
- b. The Therapeutic Use of the Prohibited Substance or Prohibited Method would produce no additional enhancement of performance other than that which might be anticipated by a return to a state of normal health following the treatment of a legitimate medical condition. The use of any Prohibited Substance or Prohibited Method to increase “low-normal” levels of any endogenous hormone is not considered an acceptable Therapeutic intervention.
- c. there is no reasonable therapeutic alternative to the use of the otherwise prohibited substance or method.
- d. The necessity for the use of the otherwise Prohibited Substance or Prohibited Method cannot be a consequence, wholly or in part, of the prior Use, without a TUE, of a substance or method which was prohibited at the time of Use.¹⁰

WADA’s criteria states that an athlete may only be granted for a TUE for a banned substance if that substance is necessary to maintain the athlete’s health. TUE applicants must show that the substance is a necessary treatment to their medical condition and that there is no other alternative to the banned substance. At the same time, doctors have to prove that the TUE applicants using the banned substances gain no additional performance enhancements other than that applicant’s return to normal health. This particular criterion is tricky as it attempts to quantify the effects of using a substance like steroids or stimulants. Skeptics may even use the following thought experiment as a rebuttal.

Say a basketball player suffering from hypogonadism shows a significant drop off in his statistical production. Now that player is able to get a TUE for TRT. As his treatment progresses, his statistics return to their numbers prior to the drop off in production. But what if his production improves beyond the numbers previous to his drop off, which coincides with his diagnosis of hypogonadism? Skeptics may conclude that the TUE for the banned substance not only treated that particular athlete’s condition but also enhanced his athletic capabilities. In this situation, it seems difficult to distinguish between enhancement caused by a substance and his improvement being attributed to the player realizing his potential. After all, the TRT treatment allowed the athlete to train again rather than sit out several workouts so that he may recover.

The fourth criterion provided by WADA also proves problematic. How would one determine prior use? The guidelines do not say how a commission determines prior use. This is also problematic as there are many athletic commissions operate independently, like how the Nevada State Athletic Commission (NSAC) operates independently from the athletic commission in Brazil. This is highlighted in MMA

¹⁰ World Anti-Doping Agency. “International standard for therapeutic use exemptions.” Page 14.

competitor Vitor Belfort's controversy surrounding TRT. Belfort, who was once a champion in the UFC, failed a drug test conducted by the NSAC in 2006. Despite his failed test, was able to obtain a TRT exemption in 2013 from a Brazilian athletic commission.¹¹ This case casts doubt on how this criterion is treated by the different commissions that grant exemptions. An athlete's prior violation of banned substance policies definitely needs to be considered when granting exemptions.

This is quite similar to the policies of natural bodybuilding competitions regarding steroids. In these contests, steroids and other performance enhancers are banned and organizers use various methods such as drug tests and lie detector tests to thoroughly screen participants. In these attempts to screen participants, bodybuilders who used steroids in the past but have stopped using are still prohibited from entering these contests. Natural bodybuilding contests recognize that previous use of steroids provide users with lasting benefits even though they have stopped using.

However, there is another issue regarding prior use of banned substances. Each athlete has the right to medical confidentiality and can only disclose his history to the commission granting the exemption. If the athlete is granted a TUE, his medical history is kept in confidence by the granting committee for eight years.¹² Although a granted TUE is public information to opponents, the medical history of the athlete which includes reasons for granting the exemption is considered confidential information. This policy may serve as a smokescreen which raises speculation as to how a particular athlete was able to procure an exemption. A TUE granting committee may be transparent in letting leagues know how many exemptions were granted during a particular time but medical records which may have evidence of a player's prior use of banned substances. For example, an athlete uses a new method to enhance his performance while also treating a medical condition. This method is suddenly included in the list of prohibited methods and substances of WADA. If this athlete is granted a TUE, his use of the previously banned substance is effectively hidden from the public because of the confidentiality agreement that the TUE granting committee is obligated to abide by. In effect, the TUE granting committee covers up this athlete's prior use of a substance to enhance his performance. Although this situation opens a litany of questions regarding the ethical implications of medical confidentiality, we will have to leave this issue for bioethicists to discuss as it would be difficult to say that this athlete's opponents have a right to know what substances and methods he is using.

Let us return to the debate that attempts to clarify what counts as a treatment and what counts as an enhancement. We have established that the use of banned substances as treatment creates a grey area. To further illustrate this, let's examine the use of testosterone and Adderall. TRT is used to treat the complications of hypogonadism as it effectively boosts libido, mood, and cognition. But it also

11 Cain, Jeff. "Vitor Belfort: TRT doesn't win fights." *Bloodyelbow*. May 18, 2013. Retrieved from <http://www.mmaweekly.com/vitor-belfort-trt-doesnt-win-fights>. (Accessed November 24, 2014)

12 World Anti-Doping Agency. "International standard for therapeutic use exemptions." 15-16

increases muscle mass, bone density, and improves red blood cell production. These benefits not only allow the athlete with hypogonadism to recover better from training but can also significantly boost that athlete's performance. The same can be said of Adderall, which enhances its user's focus and memory. This is particularly important in sports like baseball, football, basketball and even chess, where concentration is important and snap decisions can either lead to winning or losing.

If therapeutic use exemptions for banned substances are viewed similarly to strategic fouls, in the sense that it is treated like a license we have to procure, we may find sporting organizations in a situation where they are regulating the use of enhancers rather than enforcing a ban. In applying for a TUE, an athlete asks the organizers of the sport to permit his or her use of a banned substance for a medical condition. The burden of approving the use of the banned substance falls upon the organizer, say a league like the NBA, the UFC or FIFA. Although TUE regulation poses a tedious task to organizers of sport, third parties such as the World Anti-Doping Agency have provided guidelines to granting therapeutic exemptions.

Although journalists report that it is difficult to get TUEs even if an athlete has a doctor's prescription, we may still be able to argue that the existence of TUEs opens up a loophole for athletes to use banned performance enhancing substances. Instead of deterring athletes from using banned substances, the existence of these exemptions allows the athlete go through a process which allows them to use what is otherwise banned by the rules. The exemption process is more like paying a fee to get your training supplement or method to be cleared by the athletic organization. However, unlike the strategic foul in basketball, the price paid by the strategic fouler does not play into the game but outside of the game. Opposing teams fouled by the strategic fouler receives free throws while on the other hand, opponents of those granted with TUEs only receives the knowledge that they are facing someone who is using a prohibited substance. Given the situation, when a commission hands out an exemption, the banned substance is treated like a fill to a pothole, as the athlete attempts to bridge the gap caused by his condition with a banned substance. However, fills to pot holes are not always level. Athletes who had a condition that prevented them from competing may end up reaping a slight edge caused by their legal banned substance use.

If athletic organizations and anti-doping agencies are truly dedicated in eliminating doping in sports, it seems they have to make sure TUEs are not viewed similarly to strategic fouls. Grey areas regarding treatment and enhancement need to be recognized and further tested. This applies particularly to cases where an applicant for a TUE actually suffers a condition that is caused by his former use of banned substances. A lot of burden rests on the sports organization to investigate whether an athlete indeed used banned substances in the past. To make matters worse for these organizations, physician-patient privilege could also pose a hindrance to any investigations regarding an athlete's medical history. For example, if a doctor treats a patient with hypogonadism who also states that he used anabolic steroids in the past, that doctor can omit this admission that his patient used steroids in the past when submitting the requirements for the exemption. The burden here definitely rests on the commission who was not able to catch the athlete's prior

use. If that athlete was already a veteran of a few years, it would be as if the organization acknowledges that that athlete never used any banned substance before the diagnosis of his condition. To fully resolve this issue, we might have to delve into the field of medical ethics. But for now our discussion is currently limited to the likeness of exemptions to strategic fouls.

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Economic Well-being of Middle-aged Single Women

Comparative Study with Single Men

Kaoru OKAZE

Introduction

Recently, the lifetime non-marriage rate for Japanese women has reached 10.6% (National Institute of Population and Social Security Research, 2012), and the rate is expected to reach 23% in 2030 (Fujimori, 2010). These data show that women living without a husband are no longer uncommon in Japanese society. It can be concluded that the social stigma indicating that single people are deviated has been eased. However, Abe (2010) indicates that women without a husband in their elder years tend to face poverty, and she mentions that the financial instability of women in their elder years is related to marital status. In addition, Shikata (2010) also points out that single women in their middle years or older experience a great deal of anxiety about living expenses after retirement age. The average yearly income for Japanese women is 2.7 million yen, and it rarely increases from their youth to their middle-aged period. Moreover, the full-time employment rate for single women has declined¹, and it is not easy for women to secure stable income throughout their lives. According to Naoi (1985), social norms, such as gender roles, inhibit women from learning social attitudes, the concept of values, and professional skills, which are useful to achieving lifelong economic independence. Taking these backgrounds into consideration, it is natural that women without husbands tend to lapse into financially disadvantaged situations and also experience financial anxiety.

Furthermore, since the rate of living with their parents is high for Japanese single women, they tend to look after their parents when they become elderly and experience health problems. If the burden of providing this care is great, they might have to quit their jobs. Single women can financially rely on healthy parents, even if their own income is low. However, after their parents pass away, single women lose them as financial resources, and this often makes it difficult for them to maintain stable lives. In other words, middle-aged single women are in the position of both establishing their own economic bases and taking care of their parents.

Despite such circumstances, the available literature on the antecedents and

1 According to “Annual Population and Social Security Surveys,” the rate of full-time workers among single women, which was just less than 70% in 1992, decreased to less than 40% in 2010 (National Institute of Population and Social Security Research, 2011). The same research also indicates that the rate of full-time workers among single women between 35 and 39 years of age was 41.6% in 2010. The rate of these women when they were between 27 and 31 years old in 2002 was 59.5%. Therefore, it can be said that the rate of full-time workers decreases with aging.

consequences of economic well-being of single women is sparse. A possible reason for this is that since the lifetime non-marriage rate was less than half of the current rate until 1980s, the total amount of single women is relatively low. Therefore, it is difficult to collect an adequate number of samples to conduct research, and unmarried women are often categorized as single women along with women who became single after being divorced or widowed. As a result, unmarried women were excluded from the research samples.

In the current Japanese society, the lifetime non-marriage rate has been increasing. Moreover, according to the perspective of the cumulative advantage/disadvantage theory in the life course, events and socio-economic statuses that people experienced in early periods of their life courses accumulate in their subsequent lives. Therefore, in order to examine the economic instability and poverty of single women in their elder years, investigating the relationship between middle-aged single women's socio-economic status and family structure and their economic well-being is a matter of substantial academic interest.

Taking the factors mentioned above into consideration, this research will be conducted targeting middle-aged single women between 35 and 54 years of age² for the purpose of clarifying their economic well-being and the factors that define their status. Subjective well-being is often used by sociologists and psychologists as an umbrella term for how we think and feel about our lives (see Diener, Suh, Lucas, & Smith, 1999), subjective well-being takes an individual's well-being to be their overall assessment of their life (Summer, 1996). Research on well-being across the life course usually maps the average levels of depression and anxiety (Mirowsky & Ross 2010, p. 362); therefore, economic well-being is measured using the level of economic anxiety in this study.

Furthermore, comparative perspectives with middle-aged single men will be used in order to understand women's characteristics more clearly. Generally speaking, since men control more economic resources, it is expected that there will be differences between men and women regarding factors that define economic anxiety.

The data that will be used in this paper will be extracted from "Research about Life Plan for Middle-aged Singles," which was conducted by the Japan Institute of Life Insurance. This research will accumulate knowledge about the economic anxiety of people who never marry in their lifetimes, which has rarely been discussed, and it will ideally help to improve the economic base of women.

2 It is widely accepted that the definition of middle-age is within 5 years more or less of the ages of 40 to 60 years, which Ishikawa (1996) indicates. However, this research relies on Heimtun (2012) and defines middle-aged single women as those who are aged between 35 and 54.

1. Previous Studies and Hypotheses

1-1 Theoretical background

Assets induce the economic and social development of individuals and families, and they enhance subjective well-being (Shapiro & Wolff, 2001). Thus, it can be assumed that the economic anxiety of single women will decline if they have their own economic plan. According to theories of intergenerational relationship, geographical closeness between parents and their adult children induce the exchange of resources between them (solidarity theory). Moreover, the provision of resources from parents to adult children, or from adult children to parents, produces trade-offs in their own resources; therefore, it could happen that those who provide resources feel conflict (conflict theory). In addition, the exchange of resources from parents to adult children or from adult children to parents depends not on the affection between them or norms of obligatory care but on the resources that the involved parties hold (contingency theory).

(a) Socio-economic status, anxiety, and the factors that define social resources

Regarding the anxiety that middle-aged and older single women experience about their lives after retirement age, Shikata (2012) indicates that the anxiety lessens for those who are older, those who are highly educated, and those who have higher yearly income and savings. He also mentions that living with their parents increased their anxiety about their lives. The influences of educational background and yearly income were also confirmed by Nishimura (2005). Matsuura (2011) analyzed the consciousness of anxiety of middle-aged to elderly men and found that their consciousness of anxiety is highly related to their health concerns, economic anxiety, and anxiety about their relationships with others. Furthermore, although consciousness of anxiety is subjective, it is connected with objective statuses, such as educational background, yearly income, and financial assets. Yamokoski and Keister (2006) investigate how educational backgrounds, income, inheritance, and age increase people's economic resources.

(b) Intergenerational relationship between elderly parents and adult children: resources and well-being

One of the resources of adult children is the human capital acquired by education and training. Abundant resources increase expected income (Kawaguchi, 2008); thus, educational backgrounds and occupational status, which increase expected income, could be resources that deal with economic anxiety. However, social evaluation of human capital is different between men and women (Kawaguchi, 2008). According to the Research Institute for Policies on Pension & Aging (2010), savings and insurance/pensions are main resources of accumulating assets for single women in their middle years and older, and they rely on financial assets and expectation of income after retirement age for their life plans.

Regarding research about parental factors, positive and negative influences

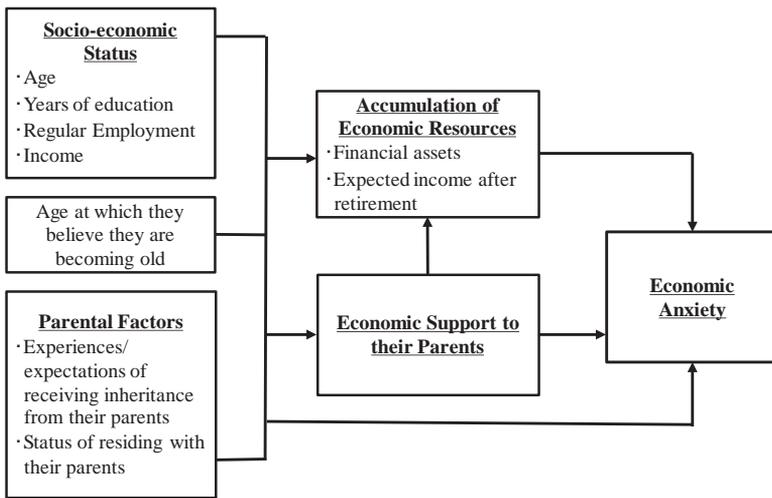


Figure 1 Conceptual Framework

of adult children's life plan and economic anxiety are pointed out. The negative influences are the provision of resources from adult children to parents when they live together. Kitamura and Sakamoto (2004) and Sakamoto (2005) indicate that when parents become older, the expenses of basic living costs for single women who live with their parents become higher, and the time spent on hobbies and entertainment becomes less. Nagase (2013) also points out that living with their parents decreases the income of single women. Moreover, Okaze (2014a; 2014b) demonstrates that living with their mothers decreases the full-time employment rate of middle-aged single women.

As positive influences, Murakami (2006) mentions that for single women, those who expect inheritance have more assets, and their life satisfaction is also higher. There are also positive influences between economic supports given to parents and the expectation of inheritance, which clarified that parents enhance their adult children's economic capacity and well-being.

1-2 Frames and hypotheses of the analyses

Figure 1 shows the frames of the analyses. Economic anxiety is the exogenous variable (dependent variable), accumulation of economic resources and economic supports to parents are mediating variables, and their socio-economic status and parental factors are independent variables. Whether independent variables directly affect economic anxiety will also be examined. It should be noted that the age at which they believe that they are becoming old, will be added to the model as a controlling variable. These ages are considered to be benchmarks that show whether they are able to work; therefore, age can influence the building of an economic base and economic anxiety.

The following are the hypotheses. (1) For those who have more economic resources, economic anxiety is lower. (2) For those who provide more economic support to their parents, it is more difficult to accumulate economic resources, and their economic anxiety is higher. (3) Those who live close to their parents provide more financial support to them and have higher economic anxiety. (4) For those who have greater human resources, it is easier to build economic resources and have lower economic anxiety. (5) For those who have received an inheritance or expect an inheritance from their parents, it is easier to accumulate economic resources and have lower economic anxiety.

2. Method

2-1 Data

The “Research about Life Plan for Middle-aged Singles” that conducted by the Japan Institute of Life Insurance was used in this study. The SSJ Data Archives, Center for Social Research and Data Archives, Institute of Social Science, and The University of Tokyo contributed individual data for the analyses. The research areas were the Kanto area (the entirety of the Tokyo, Saitama, Chiba, and Kanagawa prefectures), and the research samples were single men and women (including those who became singles after divorce or spousal death) between 35 and 54 years of age. For the sample number of 1,670, the number of valid responses was 810 (the response rate was 48.5%). The samples were extracted in accordance with the actual rate of the national census conducted in 2000. The mailing method was used between June 20, 2003 and July 16, 2003 (See the Japan Institute of Life Insurance, 2003). The analytical targets were 266 single women, excluding those who became single after divorce or spousal death. The comparative targets were 338 men.

2-2 Measurement of variables

Economic anxiety (dependent variables). For the question of “How much do you feel worry and anxiety in your everyday life?” four items related to economic anxiety were used as synthesis variables: “not being able to earn a stable income,” “income decreasing and having a financially difficult life,” “not being able to accumulate enough assets,” and “having a financially difficult life after retirement age” (women’s Cronbach α =.876, men’s Cronbach α =.863). In order to synthesize them, a five-point scale ranging from 1 (“I feel a lot of anxiety”) to 5 (“I do not feel anxiety at all”) was used for all of the items. The points were reversely calculated; for example, 1 (in this case, “I feel a lot of anxiety”) was calculated as 5.

Economic resources: Financial assets (mediating variables). For the 12 categories of answers given to the question, “How much is the total amount of your financial assets, such as savings, stocks/bonds, and insurance?” each was assigned a number: 25 for “Less than .5 million yen,” 75 for “.5 to less than 1 million yen,” 200 for “1 to less than 3 million yen,” 400 for “3 to less than 5 million yen,” 600 for “5 to less than 7 million yen,” 850 for “7 to less than 10 million yen,” 1,500 for “10 to less than 20 million yen,” 2,500 for “20 to less than 30 million yen,” 4,000 for

“30 to less than 50 million yen,” 8,000 for “50 to less than 70 million yen,” 8,500 for “70 to less than 100 million yen,” and 10,000 for “More than 100 million yen”; logarithmic conversion was applied.

Economic resources: Expectation of income after retirement age (mediating variables). Continuous variables were used that were acquired from the question, “How much regular monthly income do you expect after retirement age, such as public pensions, corporate pensions, and working salary?”

Economic supports to parents (mediating variables). For the question, “Do you provide financial support or pay living costs regularly or irregularly?” dummy variables of 1 for “yes” and 0 for “no” were applied.

Ages: Continuous variables from 35 to 54 years of age were applied.

Years of education. The answers from the question, “What is your highest level of educational attainment?” were applied: 9 for junior high school, 12 for high school, 14 for college or the National Institute of Technology, 14 for vocational college or specialized training college, and 16 for university or graduate school.

Regular employment dummy. The following dummy variables were made: 1 for full-time workers (employees of private companies and public servants) and 0 for others (temporary employees, part-timers, self-employed/freelance, others, and unemployed).

Income. For the 9 categories of answers to the question, “How much was your last year’s income from your main income source?” each was assigned a number: 25 for “Less than .5 million yen,” 75 for “.5 to less than 1 million yen,” 200 for “1 to less than 3 million yen,” 400 for “3 to less than 5 million yen,” 600 for “5 to less than 7 million yen,” 850 for “7 to less than 10 million yen,” 1,250 for “10 to less than 15 million yen,” 1,750 for “15 to less than 20 million yen,” and 2,000 for “More than 20 million yen”; logarithmic conversion was applied.

Age at which they believe they are becoming old. Continuous variables were applied that were acquired from the question, “At what age do you think you will be old?”

Experience receiving an inheritance from parents. For the question, “Have you received an inheritance from your parents?” dummy variables of 1 for “yes” and 0 for “no” were applied.

Expectation of inheritance from parents. For the question, “Do you expect an inheritance from your parents?” dummy variables of 1 for “yes” and 0 for “no” were applied.

Residence status with their father/mother. For the question set, “Is your father or mother still around? Do you live with either or both of them? Please note that duplex housing is categorized as living close (within 30 minutes one way),” variables of 3 for “living together,” 2 for “living close,” 1 for “living separately,” and 0 for “no parents around” were made.

2-3 Analytical methods

Descriptive statistics and path analyses were applied. Missing values were replaced by average values, and path analyses were conducted based on the analytical model. The types of software used in the analyses were SPSS22.0 and AMOS19.0.

3. Results

3-1 Sample characteristics

Table 1 shows the sample characteristics of this research. The average age for women was 42.5 years old and that of men was 40.3 year old. The average number of years of education were 13.9 for women and 14.3 for men, and the rate of those who graduated from university or graduate school was 25.6% for women and 51.2% for men. These rates were higher than those shown on the “Employment Status Survey 2012” (Ministry of Internal Affairs and Communications, 2013) for those aged between 35 and 54 years: 16.0% for women and 37.3% for men³.

With respect to income, the average was 3.78 million yen for women and 4.72 million yen for men. The data of the “Statistical Survey of Actual Status for Salary” (National Tax Agency, 2013) shows that the average income for women including both full-time and temporary workers was 2.68 million yen (average age is 45 years old) and that it was 5.02 million yen for men (average age is 44.9 years old). Income as well as educational attainment was higher for women, but it was lower for men. The rate of full-time workers was 55.3% for men and 50.0% for women. Since the “Employment Status Survey 2012” (Ministry of Internal Affairs and Communications, 2013) indicates rates of 76.6% for men and 38.2% for women⁴, the rate for men was lower and that for women was higher for the samples used in this research.

Table 1. Sample characteristics

	Men (N=388)			Women (N=266)		
	Average	SD	Range	Average	SD	Range
Age	40.3 years old	4.73	35—54	42.5 years old	5.84	35—54
Years of education	14.3 years	2.00	9—16	13.9 years	1.56	9—16
Income	4.72 million Yen	268.92	25—2000	3.78 million Yen	207.89	25—1250
Percentage that is regularly employed	55.3%	0.50	0—1	46.2%	0.50	0—1

In summary, the samples of this research were relatively younger middle-aged individuals, and their educational backgrounds were high for both men and women. On the other hand, income and rates of those who were full-time workers were lower for men and higher for women. These results will be taken into consideration during interpretation.

3 Based on the “Employment Status Survey 2012” (Ministry of Internal Affairs and Communications, 2013), this was calculated by the author.

4 Based on the “Employment Status Survey 2012” (Ministry of Internal Affairs and Communications, 2013), this was calculated by the author.

3-2 Descriptive results

Table 2 shows the descriptive results and t-test results of the mean values for men and women. The economic anxiety of women was 15.89 points and 15.02 points for men, which means that women have more anxiety than do men. Age was significantly higher for women. Years of education, working status, and income were all higher for men, which is consistent with the public data shown in the previous paragraph.

In contrast, financial assets were significantly higher for women. This could be influenced by available systems and financial information acquired at their working places, since the rate of full-time workers for this research was higher. The expectation of providing income and support to parents was higher for men, which can be affected by the current standard of income. Regarding parental factors, there was a tendency for men to live near their mothers. One of possible reasons for this is the significantly younger average age of men in this research, which increases the rate of men whose mothers are still around.

Table 2. Descriptive results

	Men (N=388)			Women (N=266)			Differences between men and women	P-value
	Average	SD	Range	Average	SD	Range		
Economic anxiety	15.02	3.25	4—20	15.89	3.35	4—20	-0.87 ***	
Financial assets (logarithm)	2.43	.67	1.4—4.0	2.62	.62	1.4—4.0	-0.19 ***	
Income after retirement age (10,000 yen)	20.65	10.00	0—100	17.01	8.10	0—60	3.57 ***	
Economic support to their parents (10,000yen)	24.33	32.26	0—200	15.46	40.72	0—200	8.87 **	
Age	40.29	4.73	35—54	42.45	5.84	35—54	-2.2 ***	
Age at which they believe they are becoming old	64.56	5.05	50—80	64.35	5.81	50—80	3.6 ***	
Years of education	14.25	2.00	9—16	13.89	1.56	9—16	.36 †	
Regular employment dummy	.55	.50	0—1	.46	.50	0—1	.09 †	
Income (logarithm)	2.59	.31	1.40—3.30	2.48	.31	1.4—3.1	.25 ***	
Experiences of receiving inheritances from their parents (yes=1)	.11	.32	0—1	.16	.36	0—1	-0.05	
Expected inheritance from their parents (yes=1)	.59	.49	0—1	.53	.50	0—1	.06	
Residence status with their father	1.62	1.31	0—3	1.47	1.29	0—3	.15	
Residence status with their mother	2.22	1.02	0—3	2.03	1.10	0—3	.19 †	

Note †p<.05 **p<.01 ***p<.000

3-3 Path analyses

(a) Results for women

Figure 2 shows the results of the path coefficient. The goodness of fit of the model was GFI=.980, AGFI=.929, and RMSEA=.038. Economic anxiety was lower for those who had a lot of financial assets (-.16; the standardized path coefficient will be shown in brackets hereinafter) and for those who have an expectation of income after retirement age (-.14). On the other hand, support to parents did not show effects regarding economic anxiety. In addition, other individual resources, socio-

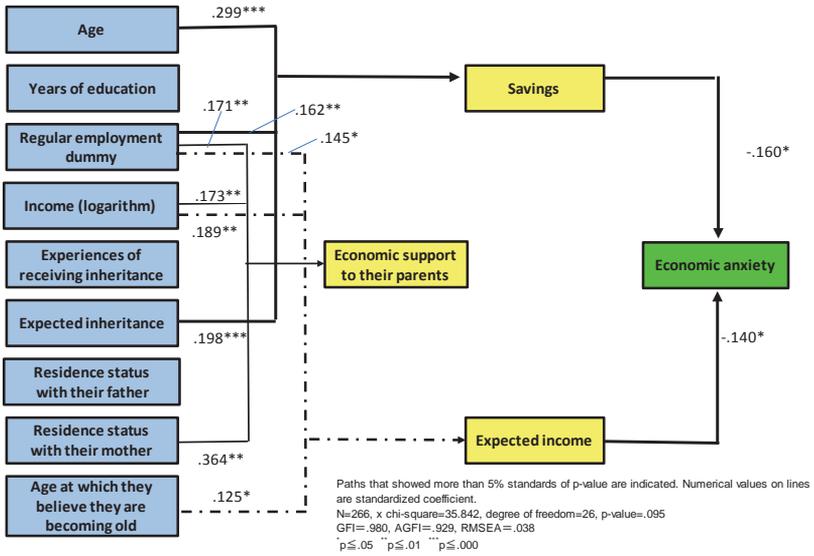


Figure 2 Results for women

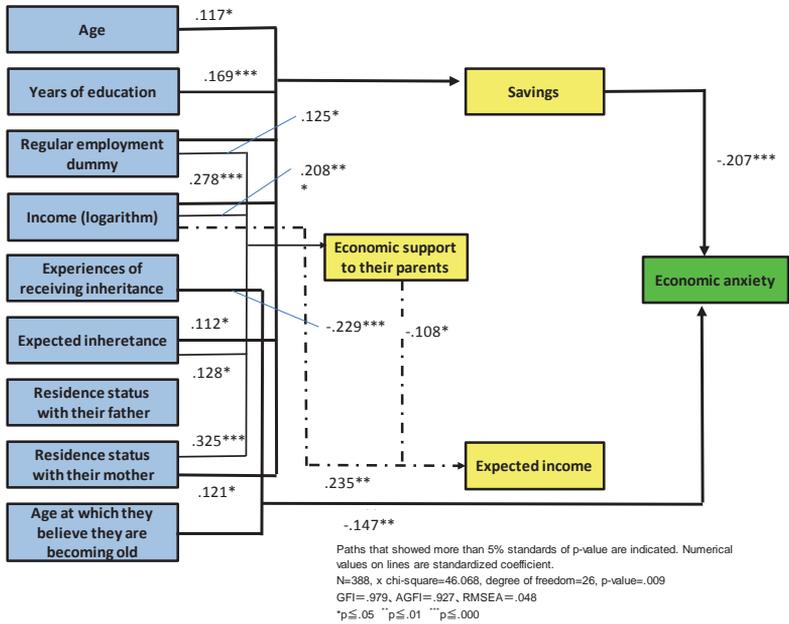


Figure 3 Results for men

economic status, and parental factors did not indicate direct impacts on economic anxiety.

Savings were higher for those who were old (.299), those who were full-time workers (.162), and those who expect an inheritance from their parents (.198). Expected income after retirement age was higher for those who were full-time workers (.145), those who earned a lot (.189), and those who were of an age that they consider old (.125). Economic support were more often provided to parents by those who were full-time workers (.171), those who earned a lot (.173), and those who lived close to their mothers (.364).

(b) Results for men

The path analyses were applied with the same model that was used for women (Figure 3). The goodness of fit of the model was GFI=.979, AGFI=.927, and RMSEA=.048; therefore, the results were reasonable.

Economic anxiety was lower for those who had a lot of financial assets (-.207), those who had experienced receiving inheritance from their parents (-.229), and those who were aware of their senior years due to age (-.147). Financial assets were higher for those who were old (.117), those who had more years of education (.169), those who earned a lot (.278), those who expected an inheritance from their parents (.112), and those who lived close to their mothers (.121). Expected income after retirement age was higher for those who earned a lot (.235), and it was lower for those who provided economic support to their parents (-.108). Economic support was more often provided to parents by those who were full-time workers (.125), those who earned a lot (.208), those expected an inheritance from their parents (.128), and those who lived close to their mothers (.325).

4. Conclusion, limitations of This Research, and Further Study

4-1 Conclusion

The examination focuses on women by comparing them to men and identifying the differences. First of all, savings and expectation of income after retirement age almost equally decreased economic anxiety for both men and women. One's economic base functions as a recourse that mitigates anxiety. It was also clarified that future income is also effective in decreasing anxiety in addition to current assets.

Unlike the results for women, expectation of income after retirement age had no effect on anxiety for men. Current income and pension/insurance have great impacts on one's amount of income after retirement age. It can be assumed that since it is more difficult for women to expect promotions and remarkable income increases, it is easy for them to make a detailed prediction of their future income.

Regarding the provision of support to parents, there were no influences observed regarding economic anxiety. According to the analyses of this research, the amount of payment to parents for women was about 44,000 yen per month (53,000 yen for men) on average. Because the average income of the samples was

relatively high, it probably did not have enough impact to cause feelings of anxiety.

For financial assets and expectation of income after retirement age, the status of being a full-time worker had positive influences on both men and women. This was a reasonable result, and it explains that employment status is an important social resource for women. According to the theory of savings, the amount of one's savings is increased by the systems and environmental factors of their workplaces apart from individual characteristics and actual income (Weiss, 2006). Recently, it has been common for single women to be employed as temporary workers. Taking this into consideration, the importance of institutional factors, such as the status of full-time workers, was reconfirmed.

Age and expectation of inheritance from parents also had positive impacts on financial assets. The duration of savings usually becomes longer in accordance with age; thus, it can be said that the result was reasonable. In regard to expectation of inheritance from parents, the tendency was the same as that of Murakami's (2006). The expectation of inheritance could indicate the wealth of the family from which they originate. This could be understood to mean that if family is wealthy, the amount of support from the parents is also great, which is connected to the increase of financial assets.

Full-time worker status, current income, and the age at which they become aware of their aging influenced expectation of income after retirement age. Being a full-time worker and currently having a high income increase the amount of pension they will receive in the future. If the age at which they become aware of their senior years is greater, they can imagine working for a longer duration. This makes it possible to expect a higher income after retirement age.

It was found that the influential factors for economic support provided to parents were full-time employment and high income, and those who have more economic capacity tend to provide support. The influence of living close to one's mother was also significant, and geographic closeness was found to induce the provision of economic support to one's parents. Living with their fathers did not have an impact, which is likely because the economic capacity of fathers is usually higher than that of mothers and because of the need to provide support to elderly mothers after they are widowed.

Regarding effects that were found only for men, years of education increased financial assets. The reasons for this could be that years of education for men are generally longer than those of women and that their human capital is more highly evaluated in society. Another possible reason is that men might have had more opportunities to learn about the economy and finance. However, this assumption cannot be confirmed by this research alone; therefore, it will be included in future studies.

Moreover, experiences of having received inheritances from parents directly decreased economic anxiety for men. On the other hand, there were no effects found between receipt inheritance and financial assets. Hence, it is possible that men receive inheritance in forms other than money, such as real estate, and that these assets decrease economic anxiety. Furthermore, those who expected to receive an inheritance provided more support to their parents. Taking these results

into consideration, there might be differences between men and women regarding the quality and quantity of inheritance and the supporting relationship between inheritance and parent-child. However, because discussions about inheritance are various, this should be confirmed based on a new model.

In summary, it has been clarified that economic resources directly decreased economic anxiety for women. In addition, their socio-economic resources and geographic closeness to their parents induced the provision of economic support to their parents, but said support did not show an impact on their economic anxiety. In order to increase the standard of their economic bases, the transfer of economic resources from parents was found to be important in addition to personal factors, such as full-time employment and income. In comparison with men, it was indicated that years of education did not affect the economic resources of women, and inheritance from their parents was not connected to the provision of economic support to their parents.

4-2 Limitations/further study needed

The first limitation of this research that indicates the need for further study is the data. The data is rare, but taking it into consideration the year in which it was conducted, the limitation of the areas in which it was conducted, and the fact that the academic backgrounds, incomes, and full-time employment rate are higher than the general public data, the results should be carefully analyzed.

The second limitation is the variables that were used for the analyses in this study. According to Shikata (2012), health conditions have significant impacts on anxious consciousness. However, since there were no variables related to health, these variables were not able to be included in the model. In addition, regarding the parent-child relationship, the health conditions, ages, income, and occupations of the parents should be examined. Moreover, since inheritance has an influence, the effects of single people having siblings, their marital status, numbers, and relationships have to also be investigated. There is a limit regarding the secondary data, but there are still more factors that should be considered in the model.

Presently, it is not uncommon to be single throughout one's lifetime, but the current system and economic environment of this country still make it difficult for many women to be financially independent. In order to investigate the ways in which the economic anxiety of single people can be reduced, it is important to accumulate data about those who are single throughout their lifetimes and to investigate them while considering the changes of their recent socio-economic environment and cohort as well as regional characteristics.

Acknowledgement

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The Gender Gap in Aspirations and Actual Realization in Higher Education

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Introduction

After the latter half of the twentieth century, it has been increasing that the rates of enrollment in higher education both boys and girls in Japan. According to Ministry of Education, Cultural, Sports, Science and Technology-Japan (MEXT), 618,146 (boys 40.4%, girls 45.1%) people entered bachelor courses in 2016 (MEXT 2016). This data shows that girls have got an access to higher education ever before. The enrollment of girls' higher education has been increasing. It is partially because, in the early nineteenth, it was almost impossible for girls to go to universities, but they were all for boys. (Tachibanaki 2011) Of course two-year-universities are founded for both boys and girls, so both of them had a choice to go to two-year-universities, however, after 1950s, the entrance rates of girls had been increasing and also the numbers of girls' two-year-universities had additionally been founded (Tachibanaki 2011). Therefore, still now, two-year-universities are the huge outlet for girl who finished high schools education.

Comparing to that time and the situation, lots of girls who entered two-year-universities have changed their future direction to four-year-universities as boys do. It can be said that girls can choose their future paths as well as boys, but still, gender gap in higher education has been discussed for a long time and women's attendance has outpaced than that of men (Jacob 2002).

It has already been said that future paths of high schools students are tend to be affected by their gender, the household income of their family, numbers of siblings, however, it has not been clearly understood about their aspiration, especially for girls in Japan. There may be some factors that would affect girls' aspirations changing into other path.

0-1 Aspiration

Jacob (2002) researched used the 12,585 people age ranging from 25-35 years old taken from the National Educational Longitudinal Study (NELS). He clarified that the level of the non-cognitive skills accounted for college enrollment (Jacob 2002).

0-2 Aspiration-expectation gap

Researchers have argued that an "aspiration-expectation gap" (Arbona 1990) exists among youth of color and low-income youth (Arbona 1990). Perry, Przybysz and Al-Sheikh focused on the youth live in urban areas and tried to examine that an aspiration-expectation gap has been narrowed among urban youth (Pery Przybysz and Al-Shiekh 2009). Moreover, they also focused in the perspective of gender, and hypothesized that urban girls has been more optimistic for their future careers than

those urban boys. On the background of this, in the U.S., more girls has entered four-year-universities than boys. They used the data consisted of 294 students (123 boys, 171 girls) registering a public high school, situated in a major urban city in the Midwest, and also a parochial middle school situated in the same urban area. 84.4% of the participants were obtained from that high school, age ranging from 11 to 19 years old. The self-reported ethnicity or race were 55.1% Black/African American, 23.1% multi-racial, 14.3% White, 3.4% Puerto Rican, and others. Students answered a short demographic sheet and questionnaire during a class period. Students were asked the level of education they hoped, expected and feared attaining, ranging from “elementary school” (1) to “doctoral degree” (8). As a result, in a perspective of the differences between ethnicity/race, White youth significantly expected lower level of education compared to other ethnic/racial groups. Then, in a perspective of gender, there were no significant differences hoped for education or feared educational possible selves between boys and girls.

As is mentioned in the previous researches, most of the studies were conducted in the U.S., and they focus on the ethnic/racial differences. Although it is important to think about the entrance rate of four-year-university, in the point of gender view, because there would be unequal opportunity for girls to choose their future paths than boys do.

Therefore, in this research, I try to figure out whether there are signs that affecting girls aspiration for entering four-year-universities changing into other future path. If it is true and there are some factors of it, this research can be used for further studies.

1. Research Method

The data used for this research are from Japanese Life Course Panel Surveys for the High School graduates (JLPS-H) wave1, 2004.3 and wave2, 2004. 10 (SSJDA 2016) conducted by Japanese Life Course Panel Surveys (JLPS) project, Institute of Social Science, The University of Tokyo, and the secondary data analysis was conducted. Respondents were third grade at high school at the time in 2004. The data were selected from January to March in 2004. The questionnaire survey was distributed to 101 selected full-time high schools located in whole areas in Japan. Each student answered the questionnaire by him/herself. 78 (77%) high schools answered the questionnaire and 7,563 (69.1%) students answered it. 3683 (48.7%) are boys and 3861 (51.1%) are girls. In addition to that, this research was necessary to use the information of household income, Therefore, the data “wave2” was selected. In this data, the respondents were the parents of their students. This was also the questionnaire survey and conducted in October, 2014 to February, 2005. 2,036 surveys were distributed to and 483 (23.7%) responded it. 97 (20.1%) were fathers and 386 (79.9%) were mothers. In the end, 482 students and parents data were used in this research. Finally, 203 (42.1%) were boys and 279 (57.9%) were girls. About 77% of students went general courses and approximately 15% of students go to high schools specialized in commercial and technical subjects.

The variable of “aspiration” was collected by the question, “What was your future path after graduating from high school when you were 2nd grade in high school?”. The students chose from “Getting a job”, “Going to a vocational/other types of school” “Going to a two-year-university”, “Going to a four-year-university” and others. 43 (22 boys, 21 girls) wanted to get a job, 75 (24 boys, 51 girls) wanted to go to a vocational or other types of school, 23 (2 boys, 21 girls) wanted to go to two-year-universities and 265 (126 boys, 139 girls) wanted to go to four-year-universities.

The variable of “realization” was collected by the question, “What is your future path after graduating from high school?” In this question, decided path and undecided path are both included. 51 (21 boys, 30 girls) will work as a permanent employee, 102 (33 boys, 69 girls) will study at a vocational/other types of school, 40 (4 boys, 36 girls) will study at a two-year-university and 264 (136 boys, 128 girls) will study at a four-year-university.

The cross table analysis was conducted for each boy and girls data.

2. Results

Hypotheses are these three. (1) Girls who did not realize to go to a four-year-university were affected by the background of their family than boys were. (2) Girls who had high frequency of communication with their family realized to go to a four-year-university. (3) Girls who had many people whose advice taking care of realized to go to a four-year-university.

As it can be seen in the data, 22 boys thought that they had got a job, and 21 actualized it. 21 girls thought that they had got a job, and 30 realized it. Then, 24 boys thought that they would go to vocational/other types of schools, and 33 realized it. 51 girls thought that they would go to vocational/other types of schools, and 69 realized it. Next, 2 boys thought that they would go to a two-year-university, and 4 realized it. 21 girls thought that they would go to a two-year-university, and 36 realized it. Finally, 126 boys thought that they would go to a four-year-university, and 136 realized it. 139 girls thought that they would go to a four-year-university, and 128 realized it. Focusing on four-year-universities, it was almost the same numbers that between students who aspired to go to a four-year-university and actualized it, however, 10 more boys actualized to go one. It had decreased by 10 that girls who actualized to go to four-year-universities.

Talking about girls who thought that they would go to a four-year-university when they were 2nd grade in high school, among 139, 2 (1.4%) got a job, 16 (11.5%) decided to go to a vocational/other types of school, 8 (5.8%) decided to go to a two-year-university and 105 (75.5%) actually decided to go to a four-year-university. Other 8 did not decide yet. On the other hand, there are different situation for boys who thought that they would go to a four-year-university. 126 boys thought that they would go to a four-year-university when they were 2nd grade in high school, but among 126, 2 (1.6%) got a job, 8 (6.3%) decided to go to a vocational/other types of school, 2 (1.6%) decided to go to a two-year-university, and 108 (85.7%) actually

realized it. According to that data, 10% less girls actually were able to a four-year-university. Then, which alternative future directions were taken by girls who did not realize to go to a four-year-university? As data showed that 11.5% (4.8%) decided to go to a vocational/other types of school and 5.8% (4.2%) decided to go to a two-year-university. It has been said that in two-year-universities, the enrollment of the girls had been increasing, and now, they are girls' education faculty in Japan (Tachibanaki 2011). Therefore, more girls than boys chose to go to a two-year-university.

Talking about vocational/other types of schools, there are various types of schools that provide some qualifications to work at work places where girls have been suited to work, for example, nursery school, kindergarten or beauty courses. Of course it is true that most of those school should accept both boys and girls, but it can be interpreted that some occupational gender gaps exist. In that way, more girls decided their future direction or expected job during a year from 2nd grade in high school or they realized that they were able to get certain job without graduating from a four-year-university. To understand what affect girls' future direction change directly, it is necessary that taking more detailed information into account.

There are obstacles that would prevent students' from going to higher-level schools (Tachibanaki 2011). (1) Economic reasons including education costs, (2) the gap between students' ability and academic ability (3) the amount of endeavor for study. Referring to those points of view, in this research, the annual household income, self-reported academic performance, study time were used. Moreover, to control the effect from parental educational background, father's educational year were used. In addition to that, the amount and the quality of the communication is also an important perspective. Therefore, the frequency of communication with their parents was also included. In addition to that the concept of the "significant others" has been influenced, so the numbers of others whose advice taking into account were included.

By using of those variables, it was analyzed that the differences between girls who realized to go to university and who did not realize it by conducting a cross table analysis.

2-1 Household income

This data was taken by "the annual household income in the last year." The parents answered this question "1 million yen" (1) to "over 20,000,000 yen" (15). According to the National Tax Agency, the average salary in the private sector in 2004 was 4390,000 yen (male 5,410,000 yen, female 2,740,000 yen) by person (2004). In that statistics, about 61.8% were male and 38.2% were female (National Tax Agency 2004). In this research, the annual household income on average was 7.7 (6 million to 7 million yen, 7 million to 8 million yen), so it seemed like that they had relatively high income, however, it may include dual income families and also they are older household than that statistics. Therefore, it cannot be said that their household income was high than the others. I converted the data into "below the average" (1), "average" (2), and "above the average" (3).

Firstly, talking about boys, the family with below the average income, 5 (41.7%) did not realize to go to a four-year-university. On the other hand, 18 (16.7%) actualized it. Then, the boys whose family had an average household income, 4 (33.3%) did not realize to go to a four-year-university, but 62 (57.4%) actualized it. Finally, the boys whose family had an above household income, 3 (25%) did not realize to go to a four-year-university, but 28 (25.9%) realized it.

Secondary, the girls whose family's household income with below the average, 7 (35%) did not realize to go to a four-year-university. Otherwise 13 (12.4%) actualized it. Then, the girls whose family had an average household income, 16 (19.3%) did not go to a four-year-university, but 67 (63.8%) actualized it. Finally, the girls whose family with above the average household income, 3 (10.7%) did not realize to go to a four-year-university, but 25 (23.8%) actualized it.

To sum up, both boys and girls whose family with lower household income than average did not realize to go to a four-year-university than others did. Talking about the girls, if their family with higher household income than the average, more of them realized to go to a four-year-university than boys did.

2-2 Parents' education years

"Fathers' education year" was used. By the theory of Relative Risk Aversion (RRA), parents want their children to get the same or above academic attainment than themselves (Breen and Goldthorpe 1997). Therefore, it can be speculated that there are correlation between parents' school years and their children's academic attainment.

Among the boys who did not realized to go to a four-year-university, 2 (16.7%) of their fathers had only graduated from junior high school, 3 (25%) of them had graduated from high school, 4 (33.3%) of them had graduated from two-year-universities or vocational/other types of schools and 3 (25%) had had bachelor's degrees or more. On the other hand, among the boys who actualized to go to a four-year-university, 3 (2.8%) of them had only graduated from junior high schools, 26 (24.1%) of them had graduated from high schools, 27 (25%) had graduated from two-year-universities or vocational/other types of schools and 52 (48.1%) had had bachelor's degrees or more.

Talking about the girls, if their fathers had only graduated from only junior high school, 2 (7.7%) girls changed their future direction downwards. If their father had graduated from high school, 13 (50%) girls changed their future direction downwards and 26 (24.8%) did not change it. If their father had graduated from two-year-university, vocational/other types of schools, 8 (30.8%) girls shifted their future direction downwards, and 25 (23.8%) did not change it. If their father had graduated from a four-year-university or more, 3 (11.5%) shifted their future direction downwards, and 54 (51.4%) did not change it. Talking about the fathers who only had graduated from junior high schools, no their daughter actualized to go to a four-year-university, but for boys, some of them actualized to go to it.

The results show □ the different characters between boys and girls. There are varieties of study backgrounds among the fathers of the boys. If fathers of the students had short study years, they did not realize to go to a four-year-university.

Over a period of years, it has been said that one's study years and annual income have correlation each other, so it can be interpreted that students who did not go to a four-year-university live in a low income families. As it has already been shown before, girls in low income family did not realize to go to a four-year-university, therefore, in this context, father's school years can explain the same thing. Although girls whose father with less study years did not actualize to go to a four-year-university. On the other hand, girls whose father had bachelor's degree or more, did not realize to go there. Taking it together, girls who did not actualize to go to a four-year-university, over eighty percent fathers did not have bachelor degrees. From other point of view, a half of the girls who realized to go to a four-year-university had fathers with at least bachelor's degrees.

2-3 Study hours

"Study hour at home" was used and students answered from "Not at all" to "over 21 hours".

Firstly, among the boys who did not study at home at all, 4 (33.3%) did not realize to go to a four-year-university. On the other hand, 15 (14.2%) actualized it. Secondly, among the boys who studied less than three hours a day, 7 (58%) did not realize to go to a four-year-university, but 62 (58.5%) actualized it. Thirdly, the boys who studied at home from four to nine hours, 1 (8.3%) did not realize to go to a four-year-university. Otherwise, 18 (16.9%) actualized it. Finally, the boys who studied more than ten hours, no one actualized to go to a four-year-university, but 11 (10.4%) realized it.

Among the girls who did not study at home at all, 3 (33.3%) did not realize to go to a four-year-university. On the other hand, 6 (66.7%) actualized it. Secondly, among the girls who studied less than three hours a day, 6 (26.1%) did not realize to go to a four-year-university. Otherwise 17 (73.9%) realized it. Thirdly, the girls who studied from four hours to nine fours, 1 (5.3%) did not realize to go to a four-year-university, but 18 (94.7%) actualized it. Finally, the girls who studied more than ten hours, 3 (12.5%) did not realize to go to a four-year-university, but 21 (87.5%) did actualized it.

To sum up, the girls who studied long time actualized to go to a four-year-university than others did. It is necessary for us to consider that this variable did not contain the study hours in cram schools.

2-4 Students' school record

Students self-reportedly judged their school record by five grades. This question could not be thought as rigid variables because there were many varieties of high school in this sample, however, it can be thought as how students value themselves in the perspectives of school record.

Among the boys who did not realize to go to a four-year-university, 2 (16.7%) thought that their academic performances in high school were "low", 1 (8.3%) said "lower-middle", 4 (33.3%) said "middle", 4 (33.3%) said "upper-middle" and other 1 (8.3%) said "high". On the other hand, among the boys who actualized to go to a four-year-university, 6 (5.6%) thought that their academic performances in

high school was “low”, 11 (10.2%) said “lower-middle”, 27 (25%) said “middle”, 36 (33.3%) said “upper-middle” and 28 (25.9%) said “high”.

Among the girls who did not realize to go to a four-year-university, 5 (19.2%) thought that their academic performances in high school were “low”, 1 (3.8%) said “lower-middle”, 13 (50%) said “middle”, 5 (19.2%) said “upper-middle” and other 2 (7.7%) said “high”. On the other hand, among the girls who realized to go to a four-year-university, 4(3.8%) said that their performances in high school were “low”, 14 (13.5%) said “lower-middle”, 50 (38.5%) said “middle”, 34 (26.2%) said “upper-middle” and 22 (16.9%) said that they were “high”. In this sample, girls who realized to go to a four-year-university (47.1%) said that their school performances were more “upper-middle” than the girls who did not realize it (26.9%).

As it is mentioned before, this was the self-reported school performance by students, so it is true that this variable cannot be thought as an absolute result, but this can be interpreted as a partial index representing the students’ positive recognition about themselves.

2-5 The numbers of significant others

This is a mixed variables from six questions. “Taking the advice into account: father” “mother” “friends” “school teachers” “cram school teachers” “others” The variables’ ranges were from 0 to 6. This variable did not precisely represent the number that students talk about matters closely. It can be explained that large numbers showed that students were able to ask variety of people in many situations¹.

As a result, among the boys who did not realize to go to a four-year-university, 1 (8.3%) did not listen to other people’s opinion at all, 7 (58.4%) listened to less than three people’s opinions and 4 (33.3%) listened to more than four people’s opinions carefully. On the other hand, 7 (6.5%) did not listen to other people’s opinion at all, 35 (32.5%) listened to less than three people’s opinions and other 66 (61.1%) listened to more than four people’s opinions carefully.

Among the girls who did not realize to go to a four-year-university, 1 (3.8%) did not listen to other people’s opinion at all, 7 (26.8%) listened to less than three people’s opinions carefully and 18 (42.5%) listened carefully more than four people’s opinions. On the other hand, the girls realized to go to a four-year-university, 4 (3.8%) did not listened to other people’s opinion at all, 34 (32.4%) listened to less than three people’s opinions carefully and 67 (62.9%) listened to more than four people’s opinions carefully.

To sum up, more girls who realized to go to a four-year-university experienced to listen to other people’s opinions carefully than others did.

2-6 The frequency of communication with family members

This is also a mixed variables from “The frequency of talking with family

1 With regarding to cram school teachers, they are teachers from private sector and only the students who have an access to the service, can get some advice. In that mean, students who go to a cram school can get some advice.

members: about daily news”, “about my matter causing distress” and “about my future direction” (a coefficient of Cronbach are boys .898, girls .997). The variables’ ranges were from 3 to 9.

Firstly, the average of the boys who did not realize to go to a four-year-university was 5.58. Otherwise, the average of the boys who realized it was 5.91.

The average of the girls who did not realize to go to a four-year-university was 6.15. On the other hand, the average of the girls who realized to go to a four-year-university was 6.20. From this data, it cannot be said that there are quite a huge differences between both categories of girls.

Conclusion and Discussion

Firstly, it is necessary to mention the inspection result of hypotheses, (1) was rejected. It is rejected, however, the girls who actualized to go to a four-year-university were affected by family’s household income. (2) was rejected. From this data, it cannot be seen the huge differences between the students who did realized to go to a four-year-university and did not actualize it. By the way, in this data, girls communicated with their family members more than the boys did. It may be said that girls talk with their family members more than boys did. Finally, (3) was rejected. There was not so such a big differences between boys and girls.

From this data, comparing to the girls who realized to go to a university, the characteristics of the girls who did not realized it were that low household income and short study years of their fathers. Moreover, girls did not study long hours and they did not value their school performance high. In addition to that, they did not have varieties of people whose opinion taking into account. Talking about the frequency of communication with their parents, the average of the value is not so different between the girls who did not realize to go to a four-year-university and girls who actualized it.

Therefore, as previous researches showed that household income, students’ academic performance and students’ study hours can be thought as factors that students prevent from going to a four-year-university.

The limitation of this study is that the aspiration was asked in retrospective way. If more accurate analysis will be conducted, aspiration should not be asked in retrospective way. There is another limitation regarding to variable. The significant others is evaluated from only the numbers of people whose advice taking into account.

It is true that there is a limitation in the variable, but girls who have many varieties of people whose advice taking into account realized to go to a four-year-university. Therefore it is necessary to formulate variables which can represent the roll of significant others for students more precisely. Finally, the big sample and new sample will be also needed to think about the girls’ aspiration for higher education and its realization.

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Appendix

Table1. Cross Table Analysis of each Variable (boys and girls)

		Boys (N=203)		Girls (N=279)	
		downward	no change	downward	no change
annual household income	below the average	5 (41.7%)	18 (16.7%)	7 (26.9%)	13 (12.4%)
	the average	4 (33.3%)	62 (57.4%)	16 (61.5%)	67 (63.8%)
	above the average	3 (25%)	28 (25.9%)	3 (11.5%)	25 (23.8%)
The father's education year	junior high school	2 (16.7%)	3 (2.8%)	2 (7.7%)	0 (0.0%)
	high school	3 (25%)	26 (24.1%)	13 (50%)	26 (24.8%)
	two-year-university, vocational/other types of schools	4 (33.3%)	27 (25%)	8 (30.8%)	25 (23.8%)
	more than bachelor degrees	3 (25%)	52 (48.1%)	3 (11.5%)	54 (51.4%)
The study hours	not at all	4 (33.3%)	15 (14.2%)	3 (12%)	6 (5.7%)
	less than 3	7 (58.4%)	62 (58.5%)	18 (72%)	60 (57.2%)
	from 4 to 9 hours	1 (8.3%)	18 (16.9%)	1 (4%)	18 (17.2%)
	more than 10 hours	0 (0.0%)	11 (10.4%)	3 (12%)	21 (20.1%)
Students' school record	low	2 (16.7%)	6 (5.6%)	5 (19.2%)	4 (3.8%)
	lower-middle	1 (8.3%)	11 (10.2%)	1 (3.8%)	14 (13.5%)
	middle	4 (33.3%)	27 (25%)	13 (50%)	37 (35.6%)
	upper-middle	4 (33.3%)	36 (33.3%)	5 (19.2%)	29 (27.9%)
	high	1 (8.3%)	28 (25.9%)	2 (7.7%)	20 (19.2%)
The numbers of people whose advice taking care of	none	1 (8.3%)	7 (6.5%)	1 (3.8%)	4 (3.8%)
	less than 3	7 (58.4%)	35 (32.5%)	7 (26.8%)	34 (32.4%)
	more than 4	4 (33.3%)	66 (61.1%)	18 (69.2%)	67 (63.8%)
The frequency of communication with family members	the average	5.58	5.91	6.15	6.20