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Superhuman Ethics Class

Never let it be said that superheroes don't take ethics seriously! After his fellow Avengers engaged in some questionable activities during an interstellar conflict in the "Galactic Storm" storyline, Captain America initiated a "Superhuman Ethics" class; later, the young heroes-in-training at Avengers Academy took the same class as part of their regular curriculum (taught by perennial screw-up Hank Pym).[1]

Even though the situations faced by superheroes may seem extraordinary, often involving aliens, wizards, or time travelers, most of them actually boil down to the same issues each of us face on a regular basis: the right ways to manage our interactions with other people given the various ways we can affect them in good ways and bad. We may not have super-strength or fire energy bolts from our eyes, but we can still use our very human abilities and the tools at our disposal to help or hurt people (including ourselves). Even if we're of a mind to help people—like the heroes we are— questions nonetheless arise regarding when to offer help, how to do it when we decide to, and who to help if we have to make choices or set priorities. We also have to consider that the help we offer may come at a cost, not just to ourselves but possibly to other people, which also deserves consideration. Compared to the complexities of moral decision-making, all of the flying, punching, and mind-reading might seem like the easier part of a hero's day! But these ethical dilemmas are the types of problems that we in the real world face all the time in our ordinary lives, and in the comics they lend an important sense of humanity to even the most super of heroes.

Before we get into the various schools of ethics, however, I want to clear up a popular misconception about philosophy professors (including myself). Some people think that when we teach ethics courses, we simply tell our students the difference between right and wrong by instilling our own ethical principles in them. But nothing could be farther from the truth. What we do is help students refine their own ethical beliefs by introducing them to the terminology and concepts that philosophers have used to discuss moral issues for thousands of years. We want to help students understand their *own* values better by challenging them to consider their views in light of alternative ones and helping them to describe their ethical positions more precisely. After reflecting on their own ethical views, students may want to adjust or reject them—perhaps if they find inconsistencies or contradictions in the way they think about moral questions—but whether or not they do is entirely up to them. If both the professor and the students do their jobs, by the end of the term the students will have the tools to think about moral questions more clearly so they can express themselves better, engage in rational discussion about ethical issues with other people, and better appreciate other people's points of view (without necessarily agreeing with them). And by discussing ethics with our students, we professors often come out with a better idea of our own morals—and sometimes our students challenge *us* to look at moral issues in new ways. Everyone wins!

In this spirit, I am going to briefly talk about the three basic schools of ethics—utilitarianism, deontology, and virtue ethics. This will not only help us situate Captain America's ethics within moral philosophy more broadly, but it will also help us understand the ethical points of view of other people in the Marvel Universe, especially when they debate moral issues with Cap in the comics. (I'm looking at you, Iron Man—do you think I don't know you're sleeping under that helmet?)

Utilitarianism

The most straightforward school of ethics is *utilitarianism*, which stems from the work of the English philosophers Jeremy Bentham and John Stuart Mill.[2] Utilitarians maintain that the morally best choice is the one that promotes the greatest happiness of the greatest number of people. Another way of saying this is that the best choice will result in the greatest surplus of pleasure over pain, or, as Bentham put it, "when the tendency it has to augment the happiness of the community is greater than any it has to diminish

it."[3] These descriptions capture the basic point of utilitarianism, but we need a little more detail to see its benefits as well as its downsides.

To be precise, utilitarianism is a specific type of consequentialism. *Consequentialism* refers to any system of ethics that judges the moral worth of actions based on their outcomes or results (as opposed to looking at the action itself or the person who performed it). Consequentialism is more general than utilitarianism in that it doesn't say what *about* the outcomes of an action should be considered, or how those qualities of outcomes should be combined or weighed against each other, to form a moral judgment of the action itself. It merely says that outcomes are what matters, and philosophers can fill in the details to specify which form of consequentialism—such as utilitarianism—they want to use to evaluate moral choices.[4]

According to utilitarianism in particular, the outcome of an action is assessed according to its *utility*, which can be defined as the happiness, pleasure, or well-being it creates. There are variations of utilitarianism that claim that each of these is the "right" understanding of utility. This is a crucially important issue for philosophers, because the way we define what is morally good affects the judgments we make. If we consider utility to be happiness, we'll do things to promote happiness, but if we define utility as a broader conception of well-being, then we'll focus on that instead, which may lead to different ethical conclusions. For our purposes, however, we can keep things general and say the utility of an action is simply the *good* it produces for people. When Captain America saves a child from a burning apartment building, he increases the amount of good experienced by the child, her parents and other family members, and the firefighters who otherwise would have (willingly) risked their lives to do the same. Actions that produce more good—or less "bad"—are said to have more utility, and actions that produce less good (or more bad) have less utility. (Some would call the latter *disutility*, but I think it's easier to say "less utility." And it's my book.) It doesn't matter if we look at Cap's actions as increasing a family's utility or decreasing its disutility (sounds weird, right?); either way, their utility is higher because of his action, which makes his action ethical according to this simplistic utilitarian judgment. (We'll discuss complications later, even though it usually turns out that saving children from burning buildings is a good thing to do.)

Regardless of how utility is defined in any particular version of utilitarianism, it's the answer to the second question—how should the utilities of various people be combined—that lends the system much of its moral power. In utilitarianism, the utilities of individual persons are simply added

up, which implies that each person's utility or well-being counts no more and no less than anybody else's. In other words, utilitarianism is based on the idea that all people have equal moral status. As you can imagine, this was a revolutionary thought in the eighteenth century, not just in terms of race and gender but also socioeconomic class—especially in countries like Bentham and Mill's native England, which had a strict class system. This rebellious streak in utilitarianism suited Bentham, a social reformer who wanted to see the government acknowledge the well-being of the lower classes as well as the rich when making decisions; it appealed to Mill as well, who advocated strongly for women's rights alongside his wife, Harriet Taylor Mill.[5] This moral equality forces us to think of everyone who is affected by our actions, not just those close to us (such as family or friends) or similar to us (in race, gender, or nationality).

Despite its simplicity and intuitive appeal, there are some problems with utilitarianism that are widely acknowledged by philosophers (even those partial to it). First, you have to determine how much utility is produced (or disutility prevented) by an action, which is often difficult to measure. It is one thing to say that helping an elderly neighbor with his groceries is good for him, but it's another thing entirely to say *how much* you would help him. In most cases this isn't necessary; let's be honest, we can all afford to help each other out more, especially at little if any cost to ourselves. But if you can help your neighbor only at the expense of delaying a commitment you made to someone else, you need to be able to determine the utilities of those two actions before you can compare them and choose the best action. This may seem like a simple problem of estimation or measurement, but since the definition of utility—defining what the good is—is an ethical question in itself, any attempt to measure it involves a value judgment as well.

Second, you have to be able to determine a *lot* of utilities—and do a lot of math—in order to know that you have arrived at the best action. To start with, a utilitarian needs to compute the change in utility of every person affected by her action. She also has to forecast all the ripple effects of her action as they spread out in the world and figure out those utilities. But we're not done—the world is an uncertain place, after all, and any action will have many possible consequences, some more likely than others. As a result, the utilitarian has to determine the probabilities of each possible outcome and discount the utilities of those outcomes by their likelihood. (All else the same, more likely outcomes deserve more consideration than less likely ones.) These complications aren't going to be very important when deciding

whether to help your neighbor with his groceries, but if you're using utilitarian logic to help make a big decision like what to major in in college, what job to take, or whether to have a child, all of the possible outcomes you will want to consider can be mindboggling. Ironically, the complexities of utilitarian decision-making might suggest that engaging in it sacrifices too much utility, especially with regard to minor decisions, and that you should just make a choice with the information you have. (It makes sense, after all, that you would spend weeks shopping for a house but just seconds choosing a Captain America toothbrush.)[6]

More important from a moral point of view—and perhaps just as surprising—the principle of equality that grounds utilitarianism has downsides too. For instance, some people are what philosophers call "utility monsters" who derive extraordinary amounts of utility (or disutility) from ordinary actions.[7] We all know people who are like this in certain situations: our best friend who lives to see his favorite movie star in her latest film, or our cousin whose eyes roll back in her head in ecstasy when eating Belgian chocolate. Utility monsters can go the other way too, getting incredibly sad or upset at relatively small disappointments, such as missing a cab or watching your cousin take the last piece of Belgian chocolate. True utility monsters get exaggerated amounts of utility, positive or negative, from certain things. The problem is that, even though their utility doesn't count any more than anyone else's, they get so much more of it from things that changes in their utility tend to overwhelm everyone else's. If I'm deciding who to give the last piece of chocolate to, I might decide that, because your cousin would get more pleasure out of it than anyone else, she should get it—and she might get all of it because she loves it so much. But that hardly seems fair, does it? Even though utilitarianism is based on equality, people don't have equal capacities for getting utility from things, and this can bias the results of utilitarian decision-making so that actions are always chosen in utility monsters' favor.

There's a more pressing problem with the equal consideration of utilities: it's not obvious that in every situation, everyone deserves to have his or her utility counted equally, if at all! Certainly we should start from an assumption of equal treatment, but there are circumstances that may lead us to question it. In one story, Captain America and another hero, Nomad (about whom we'll hear much more later in the book), were fighting a villain on a yacht that suddenly burst into flame.[8] While Cap's first priority was to save the unconscious (and massive) villain in front of him, Nomad chose to ignore the villain, telling Cap that he's "not worth the effort of saving," and

running to save any (innocent) passengers left on the boat. To Nomad, the villain's wrongful acts made his utility less worthy of consideration than the passengers, while Cap felt that all life is equally worth protecting regardless of any one person's record of wrongdoing. In less extreme—but more realistic—circumstances, we can ask if the disutility of convicted criminals from time spent in prison should count against their punishment, or if that consideration is waived because of their criminal acts.[9] Without taking either side, there is a case to be made that the utilities of every person should not necessarily count equally in all cases, even though the standard version of utilitarianism demands that it does.

Deontology

We left the most significant problem with utilitarianism until now because it leads directly to the next approach to ethics. Because utilitarianism puts the sum of utilities above all other considerations when it comes to picking out the best action, it runs the risk of ignoring other moral factors that some may feel are more important.

One example often used by philosophers deals with a despotic government faced with a growing angry mob of citizens. The ruler thinks that the mob can be scared into submission, saving numerous lives, if he plucks an innocent person out of the crowd and executes him. In essence, the ruler would be sacrificing one life to save many, which makes sense in terms of utilitarianism (assuming all lives are valued equally in terms of utility), but nonetheless seems wrong to many people. A more down-to-earth example could be lying about your education to get a promotion at work, which may be recommended by utilitarian logic if the benefits from the promotion exceed the possible costs of being caught. But this doesn't consider the widespread intuition that lying is wrong regardless of the possibility of good consequences on the whole. But unless there is something about lying that *always* results in less utility for all, then it's difficult to reconcile the wrongness of lying with a utilitarian approach to it.

Another way of stating this problem with utilitarianism is that, by ignoring any moral aspects of an action other than the utility it produces, it implies that the "ends justify the means." In other words, utilitarianism places no limits on what can be done (the means) to produce the greatest amount of happiness for the greatest number of people (the ends). But this flies in the face of common-sense morality, which maintains that some

means are simply wrong and should never be used, even when they promote good ends.[10] This phrase is common enough that it's often used in comics when characters discuss ethics, especially considering that Captain America is not fond of the idea! For example, when Cap criticized Iron Man for some extreme actions he'd taken in the past in pursuit of otherwise noble aims, Iron Man told him, "I knew you could never understand that— you don't believe that the ends justify the means."[11] At the end of a recent battle between the Avengers and the X-Men—which resulted in the death of Professor Xavier, the X-Men's mentor—their leader Cyclops told Cap that change always involves sacrifice, to which Cap responded, "if only it was that simple. If only the ends always justified the means."[12]

This aspect of common-sense morality that conflicts with utilitarianism corresponds to our second major school of ethics: *deontology*. Deontology is much harder to define than utilitarianism and consequentialism are. It would be easy to say simply that deontology is the opposite of consequentialism, but that wouldn't be accurate—deontology is both more and less than "anti-consequentialism." Deontologists don't necessary rule out any ethical role for the outcome of an action; they just don't think it's the only factor at play in every situation. If utilitarians say that the ends *always* justify the means, deontologists are the ones in the back of the room pointing out "*not* always." As Yogi Berra might have said, the ends justify the means except when they don't, and the role of deontology is to explain exactly in which cases they don't. So deontology is not as extreme as anti-consequentialism—the "less" part—but it also fills in the gaps that consequentialism can't fill, like the wrongness of lying—which provides the "more."

But … if not consequences, what else is there? In the examples we gave above, something about the means themselves seemed to rule out their use. Regardless of the possible good outcomes, we simply *shouldn't* kill innocent citizens or lie to our employers. There's something intrinsically wrong about such actions that outweighs any consideration of their consequences. That's what deontology contributes: the belief that there are some moral wrongs that sometimes (not always) take precedence over consequences. Another way to put it is that sometimes the "right" comes before the "good," or that principle is sometimes more important than outcomes.[13]

That still leaves us with a question: what are these wrongs and where do they come from? The answer differs from one deontologist to the next, just as utilitarians have different ideas of what utility is. For our purposes, that issue is less important than the fact that principles of right and wrong can take precedence over consequences. Nonetheless, I'll briefly introduce the

most developed and influential version of deontology, courtesy of the philosopher Immanuel Kant. Kant's ethical theory is best known for its emphasis on *duties*, moral commands that tell a person what to do or not do, such as "do not lie," "do not kill," and "be kind to others." In fact, Kant's version of deontology has become so influential that sometimes deontology is defined as being a duty-based ethics.[14]

These duties are derived from Kant's *categorical imperative*, his formalization of "the moral law," which can be expressed in several ways. The first version is the most widely known (though perhaps not in the original, exact language): "act only according to that maxim whereby you can at the same time will that it should become a universal law."[15] In other words, if we want to do something, such as lie, we have to be able to let everyone do it (or *universalize* it), and if this results in a contradiction, that means it's wrong to do. In terms of lying, if we allow everyone to lie because we want to lie, it would result in so much lying that no one would believe anyone—which would defeat the purpose of the lie we want to tell! Based on that contradiction, we can derive a duty not to lie.

This seems logical—which Kant claims was the key to its appeal—but it strikes many as morally empty. After all, how can right or wrong be derived from logic? After all, just because something might not work well doesn't make it wrong. The moral content of this version of categorical imperative doesn't come from the logic, however, but from why we universalize in the first place: an attitude of reciprocity based on equal moral status for all. Sound familiar? This is the same principle that motivates the summing-up of individual utilities in utilitarianism, but Kant beat Bentham to it by a few decades. He was the first major philosopher to argue that all persons, by virtue of their *autonomy*—the ability to make moral decisions independent of external authority or internal drives—have an intrinsic and incomparable worth or *dignity*. No one is better than anyone else based on race, gender, or privilege of birth—which is just as radical an idea in Kant's world as it was in Bentham's (not to mention many parts of the world today). The utilitarians adopted this principle as their foundation and built a different moral system upon it, but the central idea of both schools of ethics is the same.

This respect for the dignity of persons is more obvious in another version of Kant's categorical imperative: "act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means."[16] This formula results in the same duties as the first—according to Kant, all the versions of the categorically imperative were merely different ways to express the same moral

law—but the reasoning behind it is often seen as more direct (if less formal). For instance, the duty not to lie results from this formula also, because when we lie, we use the person we lie to as a means to whatever end we're trying to further by lying, without letting that person in on the ruse (which would show that person the respect owed him or her). This is not to say we can't use people to get things we need—we do that every time we buy coffee, hire a lawyer, or get our shields buffed. What it does mean is that we have to do these things while considering the other person as a end in him- or herself, treating that person with respect and kindness, rather than being rude, deceitful, or violent.

As I said above, Kant's duties represent just one source of deontological rights and wrongs. Another deontological philosopher, W.D. Ross, also held that duties were important to ethics but believed that they were derived from intuition.[17] In his opinion, everyone "knows" that killing and lying are wrong, so we don't need a categorical imperative to figure that out. Other deontologists use the language of rights instead of duties, and just like duties, these rights can take precedence over utility. Consider, for example, the right to free speech that appears in the First Amendment to the US Constitution, which implies that individuals have the right to speak their mind even if it bothers other people (that is, subtracts from their utility). As the legal and political philosopher Ronald Dworkin wrote, sometimes rights "trump" utility—but other times they don't, as in cases of clear and present danger (such as yelling "fire" in a crowded theater), a famous exception to the right to free speech.[18] There is a clear link between rights and duties—for instance, a right to one's property implies that others have a duty not to steal it—so the two approaches to deontology are not so different. The important thing, again, is that they both identify an issue that can be of higher moral importance than utility, an instance of the "right" that can block considerations of the "good."

Notice I keep saying "can" rather than "do"—that's very important, lest we become deontological absolutists. (Worst superhero team name ever.) While deontology has a certain appeal, especially in cases in which issues of right and wrong clearly seem more important than outcomes, there are cases in which it can look extreme. Sticking to your principles and fulfilling your duties are great, even noble, but there are sometimes significant or even enormous costs to doing so, which is a consequence that even a deontologist will find hard to ignore.

One famous example that Kant gave deals with someone trying to kill your best friend.[19] Imagine this: your friend Susan pounds on your door

one day. After you answer, she begs you to hide her because someone is trying to kill her. Five minutes after locking her in your bathroom, there is a second knock on your door: it's a burly stranger who asks if Susan is there while he holds what seems to be a large battle-axe behind his back. What's an ethical person to do: tell the truth to the stranger or lie to him to save your best friend?

Kant said that even in this situation you mustn't lie—which is fine for you, but not so great for Susan, who ends up paying the cost for your "clean hands."[20] Are you willing to incur that cost—or, more precisely, have Susan incur that cost—in order to preserve your honesty? I think most people would say no: honesty is important, but not as important as our friend's *life*. No matter how strongly a person adheres to a principle, there is almost always some cost, either to that person or someone he cares about, that will force him to reconsider it.[21] This is not cynicism, such as when people say "every man has his price." It's simply the recognition that there are many things of moral importance, and no single one, whether consequence or duty, always takes precedence over all others. Morality—like life in general—is more complicated than that.

A Civil War … of Ethics!

The conflict between utilitarianism and deontology took center stage in "Civil War," a storyline which dominated most Marvel comics during much of 2006 and 2007.[22] A series of disasters involving the superhero community—including a battle between a supervillain and a team of teen-aged heroes in Stamford, CT, that resulted in the death of hundreds of people, mostly schoolchildren—led Congress to pass the Superhuman Registration Act (SHRA). The act required all superpowered heroes to register with the government, revealing their identities and submitting to training when necessary. After trying but failing to stop passage of the SHRA, Tony Stark (Iron Man) took charge of its implementation while Captain America led an underground resistance movement, with the rest of the Marvel heroes taking one side or the other (and the X-Men playing Switzerland).

Iron Man justified the SHRA and his involvement with it on utilitarian grounds.[23] He recognized both the tremendous power heroes have and the lack of oversight or accountability for how they use it, especially regarding the consequences when things went wrong. Furthermore, these issues were

not simply academic for him. Just before the Stamford incident, a villain took over Tony's mind and forced him, as Iron Man, to kill hundreds of people. Even though a friend assured him he wasn't responsible, that the armor was like a gun and the villain pulled the trigger, Tony replied, "Every super hero is a potential gun … and the last time I checked, guns required registration."[24] As an alcoholic in recovery, Tony was all too familiar with losing control in other ways as well; as he said to Cap during the Civil War, "You know how dangerous a drunk is behind the wheel of a car? Imagine one piloting the world's most sophisticated battle armor."[25]

Tony Stark saw the big picture and decided to take charge of registration to minimize the harm to his fellow heroes. Even before Stamford, he showed other heroes an early draft of the SHRA and said, "I'm telling you: this is happening. Right now. … An environment of fear has been created where this can not only exist but will pass."[26] As he told Cap, "It was coming anyway. I always thought it was inevitable, though I did try to delay it. But after Stamford there was no stopping it."[27] Once the SHRA became law, Iron Man became its public face and chief enforcer, leading a team of other heroes in rounding up unregistered heroes. After the Civil War ended, Tony said, "I knew that I would be put in the position of taking charge of things. Because if not me, who? Who else was there? No one. So I sucked it up."[28] Tony considers himself a futurist, uniquely able to look at everything that's going on and see what's coming, so he took responsibility for managing the implementation of the SHRA using his intelligence and judgment. And as a good utilitarian, he took whatever means necessary to do his job, such as enlisting the help of convicted supervillains to help capture unregistered heroes and building a prison in another dimension to detain them indefinitely—using the ends to justify the means, as he had many times before (much to Captain America's chagrin).[29]

Speaking of Captain America, he did not see things the same way his fellow Avenger did. While we'll describe him primarily in terms of virtue ethics in this book, many of Cap's attitudes and actions, especially during the Civil War, can also be cast in terms of deontology: specifically, the way he favored principles over consequences. Throughout the Civil War saga, he maintained that registration sacrifices the liberty and autonomy of heroes trying to help people, that heroes have to stay above politics unless they want the government telling them who the villains are, and that politicians are all too quick to trade freedom for security. To sum up, "what they're doing is wrong. Plain and simple."[30] This isn't to say that Cap didn't also see negative consequences from registration; he often cited the

danger to heroes and their loved ones if their identities are leaked. But he tied this to the issue of autonomy: while some heroes have public identities, such as the members of the Fantastic Four, that openness was their choice, not the result of a failure of database security (or government corruption). Cap felt that heroes should have the choice to keep their identities secret to protect their loved ones, and that registration endangered this choice.

More personally, Captain America doubted Tony's ability to consider the countless factors in the situation as well as he thought he could. Cap cited Tony's previous failures of judgment, telling him that "You've always thought you knew best by virtue of your genius. And once you decide, that's it."[31] What Cap may have been implying is that a brilliant mind can process a great deal of information, but moral decision-making takes more than data—especially if it must account for issues of right and wrong, as deontology requires. And even a genius cannot possibly take *every* contingency into account, much less assess the likelihood of each one. As we know, utilitarian decision-making depends critically on these estimations, and one forgotten possibility can turn the "best" decision into one of the worst, as Cap pointed out by recounting some of Tony's past disasters. At the worst, the judgment calls that any utilitarian must make can be warped, even unconsciously, by a person's desires, such as when Cap accused Tony of making decisions in his own interests rather than the greater good.[32] This twisting of moral decision-making is possible within any system of ethics, but the data-driven nature of utilitarianism makes it especially susceptible to manipulation while retaining the appearance of objectivity ("it's just math").

But in the end, even Captain America acknowledged the limits of standing firm on principle. During the epic final battle between the pro- and anti-registration forces, Cap was about to deliver the final blow to Iron Man when several civilians pulled him off. Cap begged them, "Let me go! Please, I don't want to hurt you," but they pointed to the destruction the heroes had left in their wake and asked him, "Don't want to hurt us? Are you trying to be funny?" Cap looked around him, surveyed the damage to buildings and people, and finally realized the cost of fighting for his principles. He asked his supporters to stop and surrender, saying, "We're not fighting for the people anymore … we're just fighting." When Spider-Man told him, "we were winning," Cap replied, "everything except the argument."[33] In the end, Captain America realized that he wasn't bearing the cost of his principles— they were borne by the very people he had sworn to protect.

Cap didn't give up on his principles, however; rather, he decided that the costs of defending them had become too high in this situation. As he said to Tony after his arrest following his surrender,

> We maintained the principles we swore to defend and protect. You sold your principles. … Do you actually think the fact that you know how to program a computer makes you more of a human being than me? That I'm out of touch because I don't know what you know? I know what freedom is. I know what it feels like to fight for it and I know what it costs to have it. You know compromise.[34]

When it comes down to it, utilitarians and deontologists both acknowledge the necessity of compromise. The difference is that utilitarians accept it as a component of their decision-making, while deontologists see it as a last resort. (We'll talk a lot more about compromise and judgment in later chapters.)

Virtue Ethics

While many ethical debates (such as those during the Civil War) can be framed in terms of principles versus consequences, we see a much different approach altogether in the third major moral theory—or, historically speaking, the first major moral theory. Instead of focusing on an act itself and asking "is this act right" or "is it the best thing to do," *virtue ethics* turns our attention to the person who performs the act and asks "is this something a virtuous or good person would do?" Virtue ethics looks at a person's *character*, which is understood in terms of his or her traits, dispositions, and behavior, and asks whether he or she is ethical, rather than looking at the person's actions alone. While virtue ethics often comes to the same conclusions about moral questions that utilitarianism and deontology do, it comes to them by a different path, and that difference gives virtue ethics a distinct flavor compared to the other two moral theories.

Virtue ethics dates back to the ancient Greeks and Romans, and is most often associated with the philosopher Aristotle.[35] We saw that utilitarianism is very easy to define and deontology less clear-cut, but virtue ethics is the most difficult to nail down because it comes in many varieties. However, there are some common themes among them. As with the other moral theories, virtue ethicists are concerned with how people should conduct

themselves both for their own benefit as well as the benefit of others. A central theme in virtue ethics is "the good life," although every virtue ethicist has his or her own idea of what this means (as we saw with "the good" in utilitarianism and "the right" in deontology).

For instance, Aristotle used the term *eudaimonia* for his version of the good life. *Eudaimonia* has no precise English translation: it's often sloppily translated as "happiness," but is more properly regarded as "fulfillment" or "flourishing." It doesn't refer to the pleasure of eating a great piece of cake, or even watching your kid score her first basket or goal. Although the feelings of joy in these cases might be significant, even profound, Aristotle was talking about more of a lifelong project: the pursuit of a good life, in which you experience not only great joy but also deep fulfillment, particularly by practicing virtue. Contemporary virtue ethicist Rosalind Hursthouse describes *eudaimonia* as "the sort of happiness worth having," implying a higher standard than merely simple pleasure.[36] Other early virtue theorists, such as the Stoics, had similar ideas; according to philosopher A.A. Long, the Stoics believed that "philosophy should provide its adepts with the foundation for the best possible human life—that is to say, a happiness that would be lasting and serene."[37] This view of a deeper and more complete happiness was shared also by our favorite deontologist Immanuel Kant, who wrote that virtue makes a person worthy of happiness, and the combination of the two represents the "highest good."[38] John Stuart Mill also agreed: in his version of utilitarianism, Mill distinguished between higher and lower pleasures, regarding higher pleasures of greater intrinsic value to a person's life even if they are less satisfied than lower ones. As he famously wrote, "it is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied."[39]

Another way that Aristotle described virtue and its role in *eudaimonia* was as trying to achieve excellence. "Be the best 'you' that you can be" is how we would put this today: whatever goals you set for yourself, whatever makes up your version of the good life, you should try to be excellent at them. If you want to be a scientist, or a writer, or a super-soldier, do whatever is necessary to be excellent at it. (If you want to be a villain, that's a different story!) But more broadly, we should all try to be excellent *persons*, and that's where we see the importance of general virtues such as honesty, integrity, and courage. Virtue ethicists claim that practicing virtues will make us excellent human beings, promoting our fulfillment and flourishing, and will lead to a good life, not just for ourselves but for our communities.

A virtue is normally understood to be a character trait or disposition that is the middle point between two extremes, or what Aristotle called "the golden mean." Take courage, for instance: while a person should not be cowardly, she shouldn't be foolhardy either. By the same token, while a person should never be dishonest or deceptive, neither should he be always forthcoming or indiscreet; proper honesty lies somewhere in the middle. But where? A virtuous person finds the golden mean by using her practical wisdom (*phronēsis*) or judgment to determine how courageous or honest to be in any particular circumstances. Certainly, courage means a different thing for a firefighter than it does for a business executive or a schoolteacher. They each have opportunities to be brave in their jobs, but in very different ways: the firefighter needs to be brave in the face of physical danger while the others may more often need moral bravery (which is much more useful for most of us in the modern world). But it's important to note that while the golden mean applies to the definition of a virtue, it doesn't apply to its execution. Once a person determines how honest or courageous he or she should be, that person should practice that virtue as much as possible. Put it this way: while each virtue is a golden mean, there is no middle ground when it comes to being virtuous![40]

To recap, virtue ethicists consider that good acts are those performed by good people (rather than the other way around), so the emphasis is on virtuous character traits instead of the actions that result from them. But simply saying that someone (like Captain America—remember him?) possesses virtues like honesty and courage doesn't tell us what that person is going to do in any particular situation. Even if a person is generally honest or brave, there can be many factors in a given circumstance that will affect how a person reacts to it. The virtuous person has to sort through these factors, using his or her practical wisdom or judgment to come to an ethical choice that expresses his or her character. On occasion, an honest person may lie and a brave person may flee danger—but if they are truly honest or brave, we can assume there were important considerations that steered their judgment elsewhere. (We will discuss judgment and compromise a lot throughout this book.)

To be sure, utilitarianism and deontology are nuanced and complex as well, requiring judgment in their own ways, such as anticipating contingencies and balancing duties or rights. Nonetheless, they are too often understood as issuing simply rules as such "do not lie." Such rules are useful as guidelines and frameworks for moral decisions: for example, if a person

is faced with a situation involving lying, he'll probably start with the assumption that lying is wrong and then ask himself if there are any circumstances in this case which may outweigh that rule. But the rule is never the final word, and this is often lost in discussions of deontology and utilitarianism, both of which focus on determining the right or best action to take in any situation—a focus that would seem to lend itself to following rules. Virtue ethics puts the complexity of moral decision-making and the need for judgment front and center by taking the focus away from action and turning it to people and how they make decisions, rather than the decisions they make.[41]

As we've seen, philosophers describe virtues themselves—as well as their opposite, *vices*—as character traits or dispositions that a person possesses.[42] We say that John is kind or that Joan is reliable; Peter is mean or Patty is dishonest. What virtue ethicists mean when they say these things is that, for instance, one of John's character traits is kindness, which means that he is disposed to be kind in situations in which it's appropriate. Virtuous character traits should be cultivated, preferably at an early age, so that they become an integral part of who we are. Furthermore, they must never be engaged in for other purposes, such as self-interest. We wouldn't think John is truly kind if he acts that way just to impress people and get praise, and most of us can sense when a person's virtuous behavior is insincere. That's why a virtue must be ingrained in us, a part of who we are, rather than simply a role we play or a mask we wear when it serves our interests.

Furthermore, while virtues, once learned and truly embodied, are intrinsic parts of a person's character, they are meaningless if they don't reveal themselves in action. We wouldn't think of John as kind if he never lifted a hand to help anyone, would we? How would we know he was kind in the first place? This doesn't mean that a virtuous person has to be kind, honest, or courageous every chance he or she gets, but that the person exhibits these character traits in most of the cases that call for them, and when judgment given the circumstances dictates it. If John fails to help someone in a particular instance, we can't conclude that he isn't kind after all; there may be other circumstances or considerations that prevented him from being kind in that case, or maybe he simply forgot and didn't notice.

If none of us is born with a full set of virtues implanted in our heads, how are they learned and ingrained? Many virtue ethicists, especially Aristotle, emphasize the importance of role models or *moral exemplars*, people who

demonstrate good behavior for others to emulate. If a kid looks up to a political figure, athlete, or celebrity and asks himself or herself, "what would my role model do in this situation I'm in," that kid is using his or her hero as a role model. In the comics, Bucky Barnes—Captain America's sidekick during World War II—often thought about what Steve Rogers would do, especially after Bucky found himself filling Steve's shoes after his death following the Civil War. When facing a mob scene, Bucky thought to himself,

> How am I supposed to help these people? … How can one man hold back this much chaos? Steve would find a way. I know that. And he wouldn't stop to question it. He'd just do it. Somehow. Whatever it took. He'd do the impossible. Which is what I have to do now.[43]

Of course, moral exemplars can't be just anybody—ideally they would exemplify many if not most of the virtues that we value.[44] And no one moral exemplar has to cover all the virtues: someone can have one role model in her work life, exemplifying professional virtues like hard work and dedication, and another role model in her personal life, stressing values such as loyalty and kindness. These moral exemplars may even be fictional characters, like Captain America is to us—we'll talk about issues pertaining to this in the next chapter.

Finally, a point on which many virtue ethicists disagree is whether having one virtue implies having others—or even all of them! The *unity of the virtues* refers to the position that, while we refer to distinct virtues like courage and honesty because they reveal themselves in different kinds of behavior, they are merely different facets of a good person who embodies *all* of the virtues.[45] In the Marvel Universe, Captain America is the paragon of general virtue, but in this respect he stands almost alone; most Marvel characters, by design, have at least one serious character flaw. For instance, Tony Stark (Iron Man) is an arrogant womanizer susceptible to addiction, and Henry Pym (Ant-Man, Giant Man, and many more identities) lacks self-confidence and has violent tendencies. Peter Parker is almost like a Steve Rogers in training, generally regarded as possessing all the virtues but still learning how to balance them in making moral decisions. Captain America is an example of mature virtue, a role model for the rest of the Marvel heroes—but not without imperfections, as we'll see as we discuss his virtues in later chapters.

Virtuous Deontology … No, Deontological Virtue … Maybe "Deontovirtue"?

When virtue ethics was "revived" in the mid-twentieth century, many philosophers hailed its benefits compared to deontology and utilitarianism, citing those two schools' rule-oriented focus that missed the boat as far as personal character and broader context were concerned.[46] Recently, however, there has been an explosion—well, a very mild explosion, but this *is* academic philosophy, remember—of work by scholars pointing out the similarities between Kantian deontology and virtue ethics, especially the writing of the Stoics (who were a strong influence on Kant).[47] Commitment and dutifulness are obvious candidates for virtues, after all, as are the essence of most of Kant's duties, such as honesty and courage. This is most obvious with those duties that Kant called *imperfect* or *wide*, duties that don't specify particular actions or inactions but rather require attitudes that must be held at all times and expressed when possible, such as beneficence or kindness. The flexible nature of imperfect duties has obvious similarities to virtues— and even perfect duties such as "do not lie" can easily be translated into virtues such as honesty (although the Kantian version emphasizes the negative "thou shall not" rather than the positive "thou shalt").

Kant also shared with the virtue ethicists a concern regarding character and motivation, emphasizing that to be a good person you had to "follow duty for the sake of duty," not simply as a means to some other end. The virtue ethicists' focus on character is also reflected in Kant's emphasis on the "good will," which he regarded as the only thing in the world that could be purely moral and would reliably lead to good behavior.[48] Sounds a lot like virtue ethics, right? In practice, it would be very difficult to tell a virtuous person from a Kantian. We would have ask people why they behave morally: if they said things like "to be a good person" or "because it's what my mother would do," they probably lean to the side of the virtue ethicists, but if they replied "to do my duty," or "because it was the right thing to do," that's a good sign they think more like Kant. But for our purposes, duty and virtue seem very compatible, as we will see when describing Captain America's ethics later in this book.

Another aspect that virtue ethics and Kant's deontology have in common is their emphasis on practical wisdom or judgment. As we saw before, judgment refers to the ability to make hard moral choices when the standard ethical rules, such as "do not lie" and "be helpful," do not provide a clear

answer. Judgment cannot be captured by rules or formulas—rather, judgment is what you use when rules and formulas don't tell you clearly what to do. Judgment is integral to virtue ethics, of course, because virtue ethics provides no rules at all. Certainly you should be honest, brave, and generous when the situation calls for it, but that determination requires judgment, especially when deciding where the golden mean falls in any particular circumstance. Likewise, deontology provides a number of rules, principles, or duties that help you decide what you should *not* do, but they are little help in deciding what you *should* do. This is especially true with Kantian duties, whether negative (such as "do not lie") or positive (such as "help others"), because neither type tells us exactly what to do, but only what not to do (the duty to help others can be understood as "don't stand by while others suffer").

The essential role of judgment is even more clear when obligations conflict; for instance, you may feel a tension between loyalty and honesty if your brother asks you to lie for him to his partner or boss. One famous case of conflicting obligations is Kant's "murderer-at-the-door" example described above: you have obligations not to lie and also to help your friend, but you cannot fulfill both. Since there is no higher-level rule or duty to tell you which obligation is more important, you need to use judgment to arrive at a choice. What's more, not everyone's judgment will result in the same answer in any given circumstance, even if they feel the same obligations, because they may attach different weights to them. In such cases, people need to arrive at the judgment that they feel comfortable with, the one that expresses their moral character or who they want to be.

Even utilitarianism requires judgment, but in a different way. Once all the effects on individual utilities are added up, the best decision is a simple matter of math: the action with the greatest positive effect (or smallest negative one) is the best action. But as Cap explained to Iron Man—albeit in different terms—the difficulty of measuring and calculating all the utilities and probabilities makes utilitarian decision-making nearly impossible to carry out perfectly in complex situations. Therefore, the utilitarian has to compromise upfront and decide *which* effects on *which* people in *which* possible states of the world to focus on. Naturally, he or she will consider the largest and most likely effects, since they will have the most significant effect on the final outcome. Once these decisions are made, the utilities are summed as usual, but the end result is ultimately based on judgment because the utilities themselves were based on judgment (much like adding or multiplying with rounded numbers introduces error into calculations from the

get-go). Utilitarianism can appear more "scientific" and impartial if we focus on the final step of adding and maximizing, but this ignores the judgment involved in getting the raw utilities in the first place. In the end, judgment proves to be essential to moral decision-making in every school of ethics.

While all three of the ethical theories introduced in this chapter provide valuable insights, throughout the rest of this book I will describe Captain America using primarily the language and concepts of virtue ethics. My point is to show how Captain America's "old-fashioned" ethics are still of value in the twenty-first century—not in terms of rules, formulas, or moral theorizing, but rather basic moral ideals like honesty and kindness, as well as more general qualities such as determination and sound judgment. Nonetheless, I will be drawing from Kantian deontology from time to time, especially when Cap's virtuous behavior adheres to concepts such as duty, principle, and doing what's right. For Cap, however, duty is not an end in itself, but rather a way to express his virtuous character. Even when he talks specifically about performing his duty and doing the right thing, those can interpreted as exercising his character traits of dutifulness and personal justice. But this is just one way to frame it, and I won't be arguing here that this is the only way or the best way to describe Cap's ethics and behavior—it's merely the most straightforward way to make my point.

In the next chapter, we'll talk about the issues with using a fictional character such as Captain America as a role model or moral exemplar. Is the fact that he's not real a problem in itself? If not, might he be "too good" to be a realistic role model for people in the real world? And to what extent can we say that a superhero such as Captain America has "a" character at all when he's been written by many people in many ways over many years? You might be shocked to hear that none of these questions concern me. In fact, I'll argue that several of these "problems" are more relevant to using real people as role models than using fictional ones. Take that, real people! (Not you, of course—you're wonderful.)

Notes

1 *Captain America*, vol. 1, #401 (1992) and *Avengers Academy* #10 (2011), respectively.
2 See Jeremy Bentham, *The Principles of Morals and Legislation* (Buffalo, NY: Prometheus Books, 1781/1988), and John Stuart Mill, *Utilitarianism* (Buffalo,

NY: Prometheus Books, 1863/1987), both widely available as e-texts online as well. For an excellent discussion of the pros and cons of utilitarianism, see J.J.C. Smart and Bernard Williams, *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973).

3 Bentham, *Principles*, p. 3.

4 For more on the varieties of consequentialism, see Walter Sinnott-Armstrong's "Consequentialism" in the *Stanford Encyclopedia of Philosophy* (http://plato. stanford.edu/entries/consequentialism/).

5 John Stuart Mill's 1869 essay "The Subjection of Women" is widely believed to have been co-written with Harriet Taylor Mill; in any case, she was extremely influential on his thinking on this issue, as well as others.

6 In the theory of decision-making, this is known as *satisficing* (as opposed to optimizing), which is considered to be a more realistic model of choice. See Herbert Simon, "Rational Choice and the Structure of the Environment," collected in his book *Models of Thought* (New Haven, CT: Yale University Press, 1979), chapter 2.

7 This was first suggested by Robert Nozick in his classic *Anarchy, State, and Utopia* (New York, NY: Basic Books, 1974), p. 41.

8 *Captain America*, vol. 1, #325 (1987); this incident is discussed more in chapter 5.

9 For instance, see Adam J. Kolber, "The Subjective Experience of Punishment," *Columbia Law Review* 109 (2009): 182–236.

10 You might be asking, "why do we care how common-sense morality compares to what philosophers in all their wisdom say about it?" Philosophers do this more than you might think, actually; any system of ethics that permits murder, rape, or theft would fall under intense scrutiny solely because those actions are thought to be undeniably immoral. Nonetheless, you would have a good point: in principle philosophers shouldn't test their theories against common intuition. But for practical purposes, if philosophers want to influence how people make moral decisions, they can't stray too far from people's basic moral intuitions.

11 *Captain America*, vol. 1, #401 (1992). Also, after Iron Man used the villain Mentallo's technology to erase all knowledge of his secret identity from people's minds, Cap told him that "your ends didn't justify your means as neatly as you say" (*Iron Man/Captain America Annual 1998*). (We'll discuss this story more in the final chapter of this book.)

12 *Avengers vs. X-Men* #12 (2012).

13 For example, in 1930 the deontological philosopher W.D. Ross wrote a book titled *The Right and the Good* (Oxford: Oxford University Press, 2003 edition), setting deontology (focusing on the "right") against consequentialism (focusing on the "good") in a battle that certainly rivals *Avengers vs. X-Men* for sheer excitement.

14 Kant's ethical theory is contained mostly in three books: *Grounding for the Metaphysics of Morals* (1785), *Critique of Practical Reason* (1788), and *The Metaphysics of Morals* (1797), all available in different editions and translations from several publishers. A fantastic and concise introduction to his ethics is Roger J. Sullivan's *An Introduction to Kant's Ethics* (Cambridge: Cambridge University Press, 1994).

15 Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis, IN: Hackett), p. 421. This page number reflects the standard pagination for Kant's work, based on the "official" edition of his collected works, and is included in all reputable editions of his work.

16 Ibid., p. 429.

17 Ross, *The Right and the Good*.

18 Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977)—remember that name, because we'll hear it many times throughout this book.

19 Kant, "On a Supposed Right to Lie Because of Philanthropic Concerns," included as a supplement to the Hackett edition of *Grounding for the Metaphysics of Morals*, and originally published in 1799.

20 Many Kant scholars regard this position as absurd, and have felled many a tree in attempts to reconcile it with his broader ethics. I prefer to see it as a simple mistake and maintain that his broader writings about judgment clearly recommend lying to the murderer.

21 This is the point of *threshold deontology*, which recommends sticking to your principles unless the cost reaches a certain level (or "threshold"), after which consequentialist considerations take over; we'll revisit this idea in chapter 5.

22 The main story was told in the 2007 trade paperback *Civil War* (collecting *Civil War* #1–7, 2006–2007), written by Mark Millar and illustrated by Steve McNiven and Dexter Vines (with several other inkers). Important aspects of the story were told also in issues of *Captain America*, *Iron Man*, *Amazing Spider-Man*, and *Fantastic Four*, among others (all collected in trade paperbacks).

23 For more on Tony's motivation regarding the SHRA and the Civil War, see my chapter "Did Iron Man Kill Captain America?" in *Iron Man and Philosophy: Facing the Stark Reality*, ed. Mark D. White (Hoboken, NJ: John Wiley & Sons, 2010), pp. 64–79.

24 *Iron Man*, vol. 4, #12 (2006).

25 *Iron Man/Captain America: Casualties of War* (2007), a sequel to their discussion in *Captain America*, vol. 1, #401 (1992), cited above.

26 *New Avengers: Illuminati* (2006).

27 *Iron Man/Captain America: Casualties of War* (2007).

28 *Civil War: The Confession* (2007).

29　Sound familiar? In many ways, the Civil War storyline was a less-than-subtle allegory for the war on terror following the disaster of September 11, 2001, including the controversy over Guantanamo Bay, with a touch of the gun control debate in the form of superhero registration.

30　*Captain America*, vol. 5, #22 (2006).

31　*Iron Man/Captain America: Casualties of War* (2007).

32　Once, Iron Man defeated a foe by stopping his heart before reviving him. Captain America took him to task for this, arguing, "You could have handled the situation without stopping the man's heart! I can think of at least four ways—" Tony interrupted, saying "—and I can think of seven. But this one was the most expedient," to which Cap responded, "Expedient, Tony? Or interesting?" (*Iron Man*, vol. 4, #7, 2006).

33　*Civil War* #7 (2007). For Spidey's ethical journey during the Civil War, see my chapter "'My Name Is Peter Parker': Unmasking the Right and the Good," in *Spider-Man and Philosophy: The Web of Inquiry*, ed. Jonathan J. Sanford (Hoboken, NJ: John Wiley & Sons, 2012), pp. 37–52.

34　*Civil War: The Confession* (2007).

35　Aristotle's most important ethical work is his *Nicomachean Ethics*, dating from 350 BCE and available in many editions and translations; the translation by W.D. Ross is available at the Internet Classics Archive (http://classics.mit.edu/Aristotle/nicomachaen.html). On virtue ethics in general, see Rosalind Hursthouse's entry in the *Stanford Encyclopedia of Philosophy* (http://plato.stanford.edu/entries/ethics-virtue/) or her book *On Virtue Ethics* (Oxford: Oxford University Press, 1999).

36　Hursthouse, *On Virtue Ethics*, p. 10. For more on the central role on happiness in virtue ethics, see Julia Annas, *The Morality of Happiness* (Oxford: Oxford University Press, 1995).

37　A.A. Long, *Epictetus: A Stoic and Socratic Guide to Life* (Oxford: Oxford University Press, 2002), p. 18. As you can see from Long's title, the Stoics were particularly interested in giving the people of their age practical guidance for living. One of the most popular collections of Cicero's writing, for instance, is titled *On the Good Life* (London: Penguin, 1971), and a contemporary introduction to Stoicism by William B. Irvine is titled *A Guide to the Good Life: The Ancient Art of Stoic Joy* (Oxford: Oxford University Press, 2009).

38　See his *Critique of Practical Reason* (Upper Saddle River, NJ: Prentice Hall, 1788/1993), pp. 108–110. For the strange role this concept plays in Kant's ethics, see Stephen Engstrom, "The Concept of the Highest Good in Kant's Moral Theory," *Philosophy and Phenomenological Research* 52 (1992): 747–780.

39　Mill, *Utilitarianism*, p. 20.

40　For an in-depth look at Aristotle's doctrine of the mean, see Rosalind Hursthouse, "The Central Doctrine of the Mean," in Richard Kraut, ed., *The Blackwell Guide to Aristotle's Nicomachean Ethics* (Malden, MA: Blackwell, 2006), pp. 96–115.

41   Interestingly, some prominent Stoics such as Cicero and Seneca wrote favor-
     ably of rules and principles, which was as controversial with their fellow phi-
     losophers then as it is today; see Stephen M. Gardner, "Virtuous Moral Rules,"
     in Stephen M. Gardner (ed.), *Virtue Ethics Old and New* (Ithaca, NY: Cornell
     University Press, 2005), pp. 30–59.
42   We'll see in the next chapter that psychologists have raised important concerns
     about the existence and stability of character traits.
43   *Captain America*, vol. 5, #35 (2008).
44   And reasonable people can disagree about who makes a good role model—
     such as the English mum who told her son that Cap was too violent and
     American to be a good role model for him (*Avengers*, vol. 3, #77, 2004)!
45   For more on this concept, usually associated with Plato, see John M. Cooper,
     "The Unity of Virtue," in Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul
     (eds.), *Virtue and Vice* (Cambridge: Cambridge University Press, 1998),
     pp. 233–274.
46   This revival of virtue ethics is usually dated to philosopher G.E.M. Anscombe's
     1958 paper "Modern Moral Philosophy" (*Philosophy* 33: 1–19). Michael
     Stocker's 1976 article "The Schizophrenia of Modern Ethical Theories"
     (*Journal of Philosophy* 73: 453–466), and Alasdair MacIntyre's 1981 book *After
     Virtue* (Notre Dame, IN: University of Notre Dame Press) are also central to
     modern virtue ethics and its contrast with utilitarianism and deontology,
     especially concerning the issue of motivation.
47   See, for instance, Stephen Engstrom and Jennifer Whiting (eds.), *Aristotle,
     Kant, and the Stoics: Rethinking Happiness and Duty* (Cambridge: Cambridge
     University Press, 1996); Nancy Sherman, *Making a Necessity of Virtue: Aristotle
     and Kant on Virtue* (Cambridge: Cambridge University Press, 1997); Monika
     Betzler (ed.), *Kant's Ethics of Virtue* (Berlin: Walter de Gruyter, 2008); Anne
     Margaret Baxley, *Kant's Theory of Virtue: The Value of Autocracy* (Cambridge:
     Cambridge University Press, 2010); and Lawrence Jost and Julian Wuerth
     (eds.), *Perfecting Virtue: New Essays on Kantian Ethics and Virtue Ethics*
     (Cambridge: Cambridge University Press, 2011). (There will be a quiz on
     Friday.)
48   In fact, the first sentence of Kant's *Grounding for the Metaphysics of Morals*
     reads: "There is no possibility of thinking of anything at all in the world, or
     even out of it, which can be regarded as good without qualification, except a
     good will" (p. 393).