

Introduction

From a Critique to a New Approach: Serious Questions

Interest in a book on ethics can be taken for granted today. That makes it all the more important to be clear from the outset about the nature of this interest. Normally, what is expected from a book is information. But is that still the case when the book is about ethics?

In posing this question one realizes that the word *interest*, which in any other subject is used without a second thought, takes on a special meaning in the case of ethics. Whereas one's interest in other subjects can be satisfied by information, so that *interest* means the same as *curiosity*, the situation is quite different with ethics. Ethics does not inform us about anything; it does not enlarge knowledge; it does not respond to curiosity but to a very different kind of unease. What one expects from ethics is not information but guidance. To be interested in ethics therefore means to be 'interested' in the sense of being involved, being affected. Ethics in the form of a written text occupies a peculiar position. It presupposes in the reader a personal commitment, a disquiet, a willingness to pose questions, a desire to change.

To elucidate this special position of texts on ethics, and at the same time to clarify the sense in which the term 'ethics' is used in what follows, I think it would be useful to call to mind the threefold division of philosophy which I adopted in my introduction to philosophy.¹ In my view, there are three different ways of approaching philosophy: it can be seen as a way of life, as practical

2 Introduction

wisdom and as a science. The third of these, philosophy as a science or a body of knowledge, is the one ordinarily practised at academic institutions. Philosophy is understood as an area of knowledge of a specific kind, with its own methods and schools, with a research frontier which is constantly moving forward and with special problems generated by the advance of this frontier. The manner in which this academic philosophy is presented consists essentially in argument and refutation. It shares with science the ideal of objectivity, which implies a strict division between knowledge and the person holding that knowledge: the argument is supposed to be independent of the person who puts it forward and, conversely, the person can be entirely unaffected by the knowledge he or she possesses and pursues.

I shall not approach moral philosophy in this way. That does not mean, however, that such an approach is not possible. On the contrary, one cannot help observing that the major part of what is taught at universities under the heading of ethics, moral philosophy or practical philosophy does, indeed, fall into the category of *philosophy-as-science*. In it the structure of deontic statements is examined, the speech-act of imperatives is defined, the possibility of moral arguments is studied and the legitimacy of moral judgements analysed. None of this need have anything to do with personal involvement or commitment; indeed, it does not have to affect the philosopher, or his or her listeners and readers, at the personal level at all. Quite the contrary: the less it has to do with such things, the better – that is, the more scientific. In what follows, therefore, I shall not expound academic philosophy, or what might be called the discourse of practical philosophy; nor shall I discuss its historical development, that is, the history of ethics. Indeed, I do not know what benefit readers, who, in most cases, will not be professional philosophers, might derive from such an exercise. I am aware, of course, that the broad interest in ethics today, which stems from a profound sense of unease, is fed to a large extent by the debate being conducted among academic philosophers. Later in this book, therefore, I shall touch on the history of ethics and the current academic discourse, but only when something worthwhile can be learned from it. In this introduction, though only here, I should like to comment on academic discourse and practical philosophy from a critical standpoint, in order to make clear how my approach differs from it.

Ethics, as it will be presented here, has less to do with philosophy *qua* science than with philosophy as a mode of living or a way of life, and as a body of wisdom for living. Philosophy as a mode

of living is, in a certain sense, quite the opposite of philosophy as science. It is concerned with knowledge in so far as it engages with the person, with a conduct of life which is fundamentally guided by knowledge, or, more precisely, which is determined by the state of knowledge of the person concerned. The idea of a special, philosophical way of life has its prototype in the figure of Socrates.² Socrates demonstrated in his own person – and tried to bring about in others – a state of consciousness which provided a basis for authentic actions, and for giving an account both of one's actions and of one's existence. To lead a philosophical life is not everyone's affair; it even implies an aspiration not to be like everyone else. Nevertheless, the philosophical way of life has acted as a model for many; it has been disseminated through various media, such as education, by which it has also been trivialized. In my introduction to philosophy I showed that the modern way of living is in many respects a trivialization of the classical ideal of a philosophical conduct of life.³ This fact alone is enough to indicate that a philosophical mode of life must be defined differently today from the one which evolved in the great line of development from Socrates to Stoicism. This, however, confronts us once more with the need to distinguish the philosophical life from the average one. Today, too, it is the case that not everyone is interested in leading a philosophical life.

If, in what follows, ethics is placed in the context of philosophy as a mode of living, that means that ethics is an enquiry into a special mode of life with special claims. And here, too, it is the case that leading a moral life is not for everyone.

The third approach to philosophy I have called, with Kant, 'practical wisdom' (*Weltweisheit*). Kant distinguishes practical wisdom from the philosophy of the schools, that is, from what I have called scientific philosophy, by saying that it is concerned with 'what interests everyone'. Consequently, philosophy as practical wisdom is, to my mind, the philosophy which engages with the problems confronting us today. Ethics in the framework of practical wisdom is therefore clearly distinguished from ethics as a philosophical mode of living. For it is concerned, precisely, with what interests and involves everyone, that is, with public questions. Accordingly, moral problems are not regarded in this case as problems of one's mode of living, but as problems of public opinion-forming and social regulation.

This way of understanding philosophy means that an account of ethics will need to be divided into two distinct parts. The first part will deal with problems of living, the question as to what a

4 Introduction

moral life consists of and how one must form oneself as a person in order to be a human being not just somehow, but *well*. The second part will be concerned with how, against what background and with what arguments one can take part in concrete discourse in order to contribute to a public process of forming opinion on moral questions, and thereby of establishing social norms. To begin with, these two parts, these different conceptions of ethics, will be starkly confronted with each other, without any attempt to soften the harshness of their juxtaposition. On one hand, philosophical living, which is not for everyone; on the other, involvement in problems which interest everyone; on one side, existence and the formation of personality; on the other, speech and argumentation. This contrast will not be glossed over, although, later, clear connections and mediations between the two sides will emerge, and will make the opposition between them more understandable and plausible.

First of all, however, I should like to set out my critique of practical philosophy as it is carried on in academic discourse, and thereby justify my decision not to base the present book concerning ethics on that discourse. This critique will take the form of four theses, each one referring to a particular tendency of academic ethics or schools of ethics:

1 *Academic ethics fails to reach the level of concrete problems.* This criticism applies above all to the so-called ethics of discourse, but also to other varieties, which see themselves as reconstructions of Kantian ethics and the 'categorical imperative'. If one takes the justification of moral judgements to be the central problem of ethics, once either confines oneself, like Kant, to purely formal statements, or, at most, one can, like Apel, extract the implicit norms from the discursive situation.⁴ It is, of course, the case that by entering into a discourse one accepts certain rules and also subscribes to a mutual recognition between the partners. But it would be quite impossible to derive any guidelines for concrete living from that situation. Apel had an inkling of this, and therefore suggested what he called bridging principles, or principles of application (*Anwendungsprinzipien*),⁵ the aim of which was to ensure that such a thing as practical discourse could take place at all. Nevertheless, this whole undertaking remains an ivory-tower philosophy, an ethics which fails to recognize moral problems existing *outside in the world* as relevant to its work, but is driven along instead by the increasingly sophisticated arguments of its academic practitioners. If the ethics of discourse is to have any

relevance at all, it is to the second part of ethics that I mentioned just now, the formation of a public consciousness as a background for necessary social regulations. This is how it was finally understood by Habermas, when he sought to translate the ethics of discourse into a discourse about the policy of legislation.⁶

2 *Academic ethics fails to address the difference between moral judgements and moral actions.* The academic debate on ethics is dominated, in almost all philosophical schools, by certain empirical investigations into the development of moral judgement, as carried out by Lawrence Kohlberg on the basis of Piaget's work.⁷ In these investigations the authors constructed a developmental logic of moral consciousness leading from simple guidance by reward and punishment through several clearly definable stages to actions governed by principles. But – and this is the crucial point – these actions are not really actions at all, but moral judgements. Whether people who judge a given moral dilemma in such and such a way according to such and such principles would then act in accordance with their judgement in a concrete situation is a completely open question. Not only that: it is a question which is not even asked. These investigations, therefore, are not concerned with the moral development of the child or adolescent, as they claim, but, like Piaget's, with cognitive development. Large sections of moral philosophy which are strongly influenced by these analyses are also concerned solely with moral judgements. For example, Tugendhat's *Vorlesungen über Ethik* revolves around the grounds and backgrounds of moral evaluations.⁸ Although he does seek to break out of the closed intellectual circle by including motives for moral judgements as well as grounds or reasons, he cannot leap the chasm between judgement and action, nor is he even interested in doing so. One might say that, since Socrates, this chasm has been the central problem of ethics. 'Do you hold knowledge to be something which rules us?' Socrates asked the Sophist Protagoras.⁹ The latter believed, like most people, that while one often knows full well what the good action is, one still does not perform it, being 'overcome by desires'. Jesus Christ, in the Gospel of St Matthew, also says famously: 'The spirit is willing but the flesh is weak.' In Kant's work it was still clear that moral existence involved a struggle with one's own structure of impulses. In academic philosophy since Freud, and perhaps precisely because of Freud, there is no longer any discussion of this issue.

3 *Academic philosophy continues to propagate illusions about the relationship between virtue and happiness.* That the wicked prosper and the good do not has been a challenge to ethics from the first.

6 Introduction

Faced by this manifest scandal, ethical reflection has striven in every conceivable way to demonstrate that it is also *advantageous* to strive for the good. Most ethical systems were unable to do without a long-term perspective, frequently extending into the after-life, in which being good finally came to the same thing as being happy. The chasm between the two is usually bridged by ambiguous talk of the *good life* or the *successful life*. One can either interpret that concept in the manner of Socrates, who maintained that tyrants were not really happy because they had a tyrannical inner constitution,¹⁰ or one could understand it to mean that the good person who is in a bad situation can still derive enough satisfaction from his good deeds to be content. It is incomprehensible to me how anyone, after the horrors and barbarism of the twentieth century, could still cling to such threadbare consolations. It is certainly better to emphasize, with Hans Krämer,¹¹ that morality can prejudice the subjective striving for happiness. Krämer gives the name of *striving ethics* (*Strebensethik*) to an area of ethics explicitly directed towards self-realization and earthly goods, in which what is held to be good is defined subjectively. He, at any rate, does not give the impression, under the flimsy heading of an *ethics of the good life*, that a moral existence leads at the same time to a hedonistically fulfilled life.¹²

4 *Academic ethics fails to locate itself in the context of history and civilization within which it seeks to be effective.* I have already mentioned that academic ethics has its starting-point in academic discourses and not in current moral questions. Indeed, for the most part it should not be referred to as ethics but as meta-ethics, in that it does not discuss moral questions but is concerned with the conditions determining the possibility of such discussion, that is, with moral argumentation and reasoning. Still worse than this absence of context is its lack of any historical and social reference. The discourse of practical philosophy takes no account of the fact that it is being conducted in the twentieth century, or, more specifically, in twentieth-century Germany. When, for example, Wolfgang Kuhlmann, in his introduction to the volume *Zerstörung des moralischen Selbstbewusstseins*, claims that ethical discourse in the German Federal Republic since 1945 has been dominated by horror at the new barbarism of the twentieth century, that is pure wishful thinking. He himself admits that explicit concern over the destruction of the constitutional state and the organized mass murder in the Third Reich has *not* found its way into ethical theories (p. 16).¹³ It is equally grotesque when, in the same volume, Apel explains the failure of intellectuals in the Third Reich as an

error occurring 'at the crisis stage in the transition from the morality of conventional to that of post-conventional principles'.¹⁴ He believes, for example, that 'a *universally valid normative* principle could have preserved Heidegger from total surrender to the *kairos*'.¹⁵ Here the horrors and wretchedness of the twentieth century are used quite extraneously to recommend one's own philosophy. There can be no question of a shattering of previously self-evident moral truths. Tugendhat thus derives the legitimacy of the state from his reformulation of the categorical imperative.¹⁶ It passes understanding how a philosopher can be so little a contemporary of the twentieth century that in such a connection he fails to mention *state terror*, the experience of which has shaped our historical and political consciousness. In the collection mentioned, only Hans Ebeling even attempts such a thing. In his contribution, 'Vom Schrecken des Staats zum Umbau der Philosophie' [From state terror to the reconstruction of philosophy], he states that philosophical support for the state has become impossible today, and that 'refusal of assent [to the state] is not only legitimate but morally imperative'.¹⁷

If we look back on this fourfold critique of academic ethics, it emerges that my own enterprise in this book must meet four principal demands: ethics must

- set out from an identification of current moral problems;
- confront the difference between moral judgement and the possibility and capacity for action.

In addition, it must

- acknowledge the divergence between virtue and happiness; and, finally,
- make explicit the basic historical conditions under which moral action and argumentation take place today.

Accordingly, we must first assure ourselves that moral problems do in fact exist. That this is necessary may seem a little strange, since I began by noting that a widespread uncertainty over guidelines for living was a precondition of the present intensive discussion of ethics, and therefore of this book. Does that not mean that we all feel ourselves beset by moral problems? Clearly, these two things are not the same: the general uncertainty over guidelines can go hand in hand with an average, morally untroubled con-

8 Introduction

sciousness with regard to everyday matters. The reason is that everyday life and behaviour are, in general, adequately regulated by considerations of expediency and of what is *customary*. The questions as to whether one rides on a bus without paying, tells lies to one's partner or evades taxes are not, in my opinion, moral questions. They are sufficiently regulated or decidable by customary behaviour and worldly wisdom, which can sometimes simply be called shrewdness. Admittedly, there are authors who regard such questions as moral questions as well. I should therefore state that here and in what follows I use the term *moral questions* in a specific sense, to refer to questions *which concern serious matters*. This view will be explained and justified in the course of the book. For now I will say only that when I assert that there are *moral* questions, I mean that there are questions which arise at certain times when matters become serious for each of us. How we decide those questions determines who we are and what kind of people we are.

However, in terms of the division of this book set out above, I have so far stated what a moral question is for only one part of the book – the part concerned with the moral existence of the individual and the development of the individual's mode of life. The other aspect of ethics relates to the formation of public opinion as a background for necessary social regulations. Here, too, I would maintain that moral questions exist today. What does that mean in this context? By analogy with the first definition, one might say that these questions are those which arise when matters become serious for society, which decide the kind of society we live in. Certainly, that is not a bad answer. But here, too, one must first satisfy oneself that moral questions do actually exist in the sphere of social arrangements and regulations. For it could equally be the case that everything in that sphere is done according to expediency, or according to the knowledge provided by science – or simply by convention. It is not difficult to give examples of such *morality-free* social regulations. Road traffic arrangements, for example, are a matter partly of expediency and partly of convention. Accordingly, legislators attempt to base regulations concerning matters such as emissions control on purely scientific facts – for example, facts about toxicity. Of course, such attempts frequently conceal an element of convention, and some critics would contend that even definitions of emissions threshold values are moral questions, i.e. value judgements. The term 'value' is not, perhaps, a happy choice, since it can too easily carry economic connotations. But it does point in the direction from which one

might expect an answer to the question as to what a moral question is in the context of public opinion formation. It is a question of social regulation which cannot arise solely through expedience or through *mere* convention, but requires a more general guideline. This general guideline can be one which a society, our society, has always possessed, i.e. one which society has adopted historically or implicitly through the form of its communal life; or it can be one which it has to arrive at by a majority decision and which becomes the basis of communal life from then on. Such basic guidelines are, in fact, often called values, or basic values – as in the debates between political parties on fundamental values, or when one speaks of the *basic values of our democracy* – or they may be referred to as fundamental rights, such as (to mention the most important example) human rights.

All this merely indicates formally what moral questions are. It has, however, already had one interesting result: it has brought to light the analogy between the two otherwise quite heterogeneous areas of ethics. A moral question in the area of ethics concerned with the formation of an individual mode of living is a question by which it is decided how a person regards himself or herself, and who that person is; a moral question in the field of the public discourse devoted to establishing social norms is a question by which it is decided how a society regards itself and what it becomes. In each case these are questions in which matters become serious for the individual person or for the society.

To support the contention that moral questions really do exist today in both areas it will be enough to give one example for each area. For the first area, a difficulty might arise from the fact that the point at which matters become serious for a particular person is highly individual and is different for each person. That is correct. It is, however, characteristic of the shared nature of our life situation that one can specify at least the dimensions within which matters become serious at some point for everyone. *One* such dimension is defined by the possibilities of technical-scientific medicine. The possibilities of manipulation made available by technical-scientific medicine are such that it is no longer clear today what the individual must accept as simply a given feature of one's corporeal existence. The need for sleep can be regulated by sedatives and stimulants, mood by other stimulants and psycho-pharmaceuticals, fitness and physique can be enhanced, aptitudes can be modified (or will be in the near future) by gene manipulation, organs can be exchanged in case of sickness and, finally, life itself can be prolonged far beyond the patient's active

ability to determine its content. The range of these possibilities for manipulation is in principle unlimited; that is, there is no pre-existing definition of what must be accepted as unalterably 'given' and therefore as nature. Two moral problems are connected with this. One is that by granting unlimited scope to scientific-technical manipulation, one forfeits the possibility of self-determination. Experts decide what is to be done, within the range of what is technically feasible. It follows from this, however, that the preservation of the person as a self-determining agency requires that, at some point, one should say 'No' to this unlimited manipulation. The second problem presents itself in a similar way, although against a different background. Traditionally, humanity's way of understanding itself has been determined by the difference between nature and self-consciousness, between 'facticity' and 'project'. The moral worth of people was decided in terms of the way in which they dealt with their given physical circumstances, their dispositions, illnesses, blows of fate, and so on. But if nature itself is now at our disposal, that is, if it is no longer clear what must actually be accepted as given, the stage on which a person can prove his or her moral worth has been, in a sense, removed. As the possibilities of technical manipulation are now a part of our world as a matter of fact, one cannot deny that the boundary between nature and consciousness, facticity and project, has become movable. Yet who one is, that is to say the integrity of the person, is decided by whether and where this boundary is located. Here, again, it cannot be said in general terms that one's moral existence is decided through a struggle with one's own nature, but it can be said that it is decided by the fact that one does recognize at least something in oneself as 'nature'. This makes it clear that, for all people at some time, their moral existence is decided within this dimension, although it is an entirely individual matter *at which point* within this dimension the decision occurs.

The second example is taken from the field of social regulations. Here I shall choose the debate on euthanasia. This example has nothing to do with individual morality, but is concerned with social regulation. This regulation is necessary, on one hand, because in our society there is a general prohibition on killing, and because, more particularly, doctors are obliged by the Hippocratic oath to exercise their profession with the objective of preserving life. On the other hand, there is a need for social regulation because, in view of the possibilities of modern medicine, and especially that of intensive care, it has become possible to preserve life to an extent which, in individual cases, can lead to a humanly

degrading form of existence. Another legitimation for considering a relaxation of the prohibition on killing in this case is the right of self-determination, also universally recognized. The need for social regulation has arisen, therefore, partly as a result of technical-medical developments, and thus historically, and partly as a result of a tension between two different basic values, one calling for the preservation of life and the other for self-determination. That this is a moral question is obvious: certain basic values or guidelines upheld by society as a whole are at issue. But this example also makes it clear that such moral questions can only be decided by taking account of the historical context of the debate. In this case, of course, the practice in the Third Reich of eliminating those 'unworthy of life' plays a part. It is quite impossible to decide on this question today without seeing it against the background of a misuse of the idea of euthanasia – if the practice of the Third Reich can be described even as that. What is at issue here, therefore, is not only basic values but our society's historical understanding of itself.

Looking back at these examples, I should like to note one other formal difference between them, which throws light on what can be achieved by this book on ethics, understood as a contribution to general discourse, not a personal conversation. In considering questions which effectively decide what an individual is, we can say nothing at all about the individual, but only something *general* about the dimension within which it is decided at some time what each person is. In considering the moral questions which relate to society at large, and which for that reason must be treated in the form of argument and general discourse, it has emerged that, ultimately, these questions can only be decided if one refers radically to the social *individual*, that is to say, if one refers not to society in general but to our German society.

Themes of Ethics

The field of ethics is divided up in various ways. Such classifications have to do with degrees of universality, for example. Thus, one speaks of general and specific ethics. But distinctions are also made, according to the addressee, between individual ethics and social ethics, or, according to the type of behaviour, between the ethics of striving or the ethics of virtue, and regulatory ethics or

12 Introduction

moral philosophy. Hegel's distinction between ethical life (*Sittlichkeit*), i.e. the norms which are implicitly followed in everyday behaviour, and morality (*Moralität*), i.e. behaviour based on principles, has been very influential. No less so was Kant's distinction between the *critique of practical reason* and the *metaphysics of morals*, the former corresponding to meta-ethics, that is, the clarification and justification of moral propositions, while the *metaphysics of morals* contains the elaboration of duties, up to and including legal regulations. The various classifications of ethics have also often been associated with terminological definitions of the terms 'ethics', 'morality', 'morals' (*Ethik, Moral, Sittlichkeit*). The attempts to give these terms, some of which have their origin in Latin, some in Greek and some in the Germanic languages, an unambiguous and restricted meaning have not succeeded in their aim, and I shall use them here in varying ways, as best suits the particular context. Meta-ethics will not be dealt with in this book. On the contrary, its declared aim is to get as close to the real moral questions as possible. Meta-ethical considerations will therefore only be introduced *ad hoc*, where they are needed. With regard to the practical relevance of ethics, its function as a guideline for behaviour, I would like to propose a three-part division. The first part deals with the theme of 'being-human-well', the second with the theme of customary behaviour and the third with the theme of establishing social conventions. Of these three parts only the first and third fall within the field of philosophy in the strict sense. To determine what is customary is the business of social psychology and cultural studies; to reinforce and propagate customary behaviour as a guideline for living is the affair of education in the widest sense. Here, in the framework of philosophical ethics, the primary focus will be on virtue and on the discursive guidelines which are intended to lead to norms of behaviour. Customary behaviour will therefore be given somewhat more extensive treatment than the other themes in this introductory presentation of the three parts. Customary behaviour stands midway between virtue and behavioural norms, and also has a certain function of mediating between them.

Being-human-well

What I refer to here as 'being-human-well' bore the title in classical ethics, depending on the language, of *arete*, *virtus*, or virtue. I do not

use these terms, because it is no longer possible to work directly within the tradition they represent. Although there has recently been a renaissance or rehabilitation of 'virtues' in English-language philosophy,¹⁸ it will not be possible to revive the equivalent term *Tugend* in German. It has been too seriously devalued by the eighteenth-century catalogues of virtues and vices, and the prudery of the Victorian age. The word 'virtuous' (*tugendhaft*) calls to mind a bashful young girl rather than a virile young man.

For my purposes, the same still applies to 'virtue' in English. When I speak, instead, of 'being-human-well', I seek to invoke the original meaning and scope of the Greek word *arete*. The Greeks spoke not just of the *arete* of a man or a woman, but of a horse or even a knife. This meaning actually emerges most clearly in connection with the *arete* – the 'goodness' – of the knife. For the goodness of the knife is not something added to its being, but is, precisely, the fact that it is 'good at being a knife'. This assumes that a knife can be what it is, a knife, more or less well. It emerges from this locution that in calling a knife good one is also calling it better than others. The same meaning is contained in the general use of the Greek term *arete*. This term is connected to the concept good, *agathos*, via the superlative form *aristos*, best.¹⁹ The *aretoi* are the best people, the aristocrats, the rulers. It follows that whenever goodness is at issue, being better is also at issue, and that by asking about goodness one has already raised the question of comparison, of distinction from what is worse.

It can be seen at this point that the theme of 'goodness' must be distinguished from the question of customary behaviour. To be guided by customary behaviour and to conduct oneself as people usually do is the exact opposite of engaging with the dimension of comparison. Someone who conforms to customary behaviour is a good person in the sense that they are polite, reliable, inoffensive. To call someone a good person in the context of the customary has an almost pejorative connotation: he or she is innocuous, incapable of causing a stir but, at any rate, amenable enough.

In the everyday locution about good people the idea 'good' has not yet become part of 'being human'. It is a kind of additional predicate, a quality. But when I refer to 'goodness' as the first theme of ethics, I do not mean that a person is designated as good according to this or that criterion, but that he or she *is a person well*. Goodness refers here, therefore, to an inner possibility of comparison, or heightening, or development, towards a perfectibility within the person, towards the humanity of the person which is to be developed.

The term 'goodness' in the sense of being-human-well thus presupposes a quite specific way of looking at the human being, a specific type of self-understanding, a philosophical anthropology. Of course, everyone whom one encounters empirically is a *human being*, and it is extremely important to keep this in mind; it is also possible to content oneself with empirical existence and to confine oneself in general to customary behaviour. But discourse about being-human-well presupposes within our understanding of the human being, or introduces into it, a difference between what the human being is empirically and what he or she really ought to or could be. In his lectures on anthropology Kant characterized this difference by saying that he was speaking of anthropology both in the physical and in the pragmatic sense. Anthropology in the physical sense deals with human beings as they exist, as one actually finds them and as they find themselves, whereas anthropology in the pragmatic sense refers to human beings with regard to that which they can make of themselves. It can be seen that in speaking about a person's goodness in the sense of being a human well, and thus about a crucial portion of ethics, one is concerned with a rift or fissure running through human existence, an inner danger, a risky undertaking which will not necessarily meet with success. It may be, also, that one has to take account of evil as a specific power – I shall come back to that. But what emerges here is that in setting out towards being-human-well one encounters dangers along the way. Sophocles's statement that 'of all things man is the most terrible'²⁰ already suggests something of this ambivalence. The term he uses, *deinoteros*, means more capable, more powerful, as well as more terrible. A being who is not content with the way he finds himself is a being at risk.

The striving to be good always presupposes an idea of what a human being 'properly' is, an idea of the ideal human being. To achieve goodness means to heighten one's being, to raise oneself out of empirical indeterminacy. The heightening of human existence towards an ideal has always entailed an increase in one-sidedness, a certain narrowing. The so-called virtues – bravery, self-mastery, chastity, etc. – were dimensions of this narrowing. Certainly, humanism, with its idea of all-round education, did something to counteract this tendency, though it did so at the price of failing to recognize that heightening always also involves loss. Nevertheless, it did perceive correctly that the striving for heightened humanity always contains a tendency towards hubris. Nietzsche gave expression to this tendency in his concept of the *Übermensch*. In the Third Reich this concept, in combination with

racist ideas, brought forth its corollary, the concept of the subhuman being, and a praxis based on contempt for humanity. We have every reason today to include in the idea of human goodness a recognition of the dependencies and fragility of human beings.

To be a human being well means consciously to appropriate, explicate and intensify what it is to be human. For this reason, this aspect of ethics always has a relationship to anthropology, although to a philosophical anthropology, i.e. to the elaboration of a human self-understanding. We shall have to concern ourselves with the question whether that means tying ethics back into metaphysics, into concepts of being, or tying it to nature, as in speaking of natural rights as rights 'which are born with us'. I believe that a pragmatic conception of anthropology enables us to avoid these implications. What is ordinarily called the *essence of man* consists only of historically conditioned self-images or ideals of the human being, which one uses to set oneself apart from one's given empirical existence. We shall not be concerned with such ideals of human existence in ethics, but with the difference which underlies their emergence – the difference between facticity and project, or, in more traditional terms, between nature and freedom. To be a human being well means to expose oneself fully to this difference, and not just to be guided one-sidedly and therefore blindly by a human ideal, whether it be reason, 'being-a-person' or freedom; but it also means to be able to accept and live out facticity, one's given existence, the fact that one is not the ground of one's own self. To be human well means also to be nature, to be aware of one's dependence on history and other human beings, to be aware that one does not represent humanity *on one's own*, but that, through the very striving for intensification, one becomes one-sided and therefore in need of completion by others. It is precisely this which distinguishes being-human-well from the traditional ideal of 'the good person', and from the traditional ideals of an ethics of striving. The body as the nature which we ourselves are, feelings which come over us and take possession of us and thereby cause us to be engaged in the world, our dependence on a livelihood and on recognition by others – all these are essential parts of the human condition, and to be able to live out these conditions is just as much a part of being-human-well as the formation of will and responsibility for our actions.

Customary behaviour

Customary behaviour refers to those things *one does*, which are required by custom, which are expected of us. Traditionally, the sphere of customary behaviour was called *ethos* or *mores*. But it would be quite mistaken to describe this sphere as that of morality in the proper sense. Morality only arises when, for good reasons, one deviates from customary behaviour, or prepares for new common practices by challenging the existing ones. The sphere of customary behaviour is therefore one in which neither moral decisions nor moral argumentation is required. It thus has no need of philosophy, though it does need the sphere of education in order to propagate itself.

If this characterization might appear to confer second-rank status on the sphere of customary behaviour, since it contains no moral challenges, that impression should be revised at once. For it is customary behaviour which regulates our ordinary conduct and relieves us of the need for decisions and justifications in our everyday lives. And it is also customary behaviour which affects the greater mass of people. While it is not everyone's affair to lead a moral life or to participate in practical discourse, everyone is nevertheless guided generally by customary behaviour. For this reason, the functional expectations placed on ethics can best be achieved through customary behaviour. And the hopes placed on ethics are, indeed, high. Environmental ethics is expected to put a stop to ecological destruction, peace ethics is expected to prevent wars, scientific and technical ethics is expected to direct these potentialities for the benefit of humanity. Too much, in fact, is expected of ethics, especially if the expectations are directed at the sense of responsibility or at actions guided by principle. The world is not changed by morality, and, moreover, it would be a degradation of morality to place on it demands for functional benefits. Changes to customary behaviour, on the other hand, can be effective. And it in no way detracts from customary behaviour to justify it by its usefulness. For example, it does actually make a difference whether or not it is customary in a culture to wrap each gift in paper. It will make a difference if it is frowned upon to get in a car each time one goes to post a letter. And it will make a difference for the entire system of water distribution whether or not it is customary within a national society to take a shower in the morning. Precisely because customary behaviour is effective

on a mass scale, it can perform certain functions through its effects and side-effects. It is important to note, however, that behaviour in accordance with custom, or against it, in no way depends on the moral justification of customary behaviour. It is sufficient that the behaviour is, or is not, required by custom.

One does not conform to customary practices in one's behaviour because they are *moral*, but because infringement of them is penalized. Someone who does not respect customary practices is noticed, viewed with suspicion, 'does not fit in' and, in some cases, especially if the person concerned is a child, is admonished or punished. Customary practices must, however, be distinguished from laws. They are much like unwritten laws; they have unofficial validity and are not enforced by public authorities. A person's moral existence does not depend on them, but his or her social status and reputation certainly do. For this reason the most general heading under which customary behaviour can be placed is that of *respectability*.

This term, too, has slightly pejorative connotations. Respectability is not morality; it can be upheld merely for the sake of appearance, or for opportunistic reasons. To give substance to this formulation, a number of customary practices, or species of such practices, will be listed.

First of all, there is politeness:²¹ it is customary to be polite towards other people, especially strangers. The rules of politeness preserve a certain distance and ensure that one's interlocutors are acknowledged and treated with respect. They also imply that one is attentive, obliging and considerate towards their personhood, especially their sense of *honour*.

The example of politeness allows us to study two characteristics which reappear in analogous form in other forms of customary behaviour. First, the restricted, perspectival application of politeness. Politeness first came into being as a form of conduct among equals, the nobility, the court society – hence the term 'courtesy'. That is typical of customary behaviour. What is customary *here for us*, or *among us*, in this region or in this firm. Although politeness has been disseminated by the social mechanism of imitation through all strata of society,²² it is characteristic that as late as Kant's time the German bourgeoisie expressed opposition to 'courtesy' (*Höflichkeit*) and attempted to replace it with 'urbanity' (*Urbanität*). Even though courtesy is no longer class-specific today, it is perspectival: one relates politely to others in particular respects. Polite behaviour is not a direct or intimate form of behaviour. This means that in personal relationships in

which politeness is suspended through lack of distance, behaviour may be much more authentic than in relation to strangers, but it may also be much more brutal. In saying this we have touched on the other characteristic of customary behaviour – what can be referred to critically as its inauthenticity. If I am guided by customary behaviour, I do *what people do*. That can mean that I am not authentic in my behaviour, and therefore not moral; moreover, it may be that what people do is to be regarded as immoral from the standpoint of general principles.

That would not be assumed in the case of ordinary politeness. But it becomes more problematic in the case of loyalty. It is customary to be *loyal*, i.e. loyal towards the state in which one lives, the institution one serves, and towards the partners with whom one collaborates. Loyalty is one of the forms of customary behaviour which best enable us to see that such behaviour is basic to the functioning of society. To be loyal means that one does what is expected by the community *of one's own accord*, i.e. without compulsion. Loyalty is therefore, in principle, particularistic. It does not depend on a test to establish whether the community's expectations are legitimate.

Commitment should be seen as closely related to loyalty. One is expected to be committed to the institution by which one is employed, to champion its cause, to pursue its objectives. There are cases in which one is required to confirm this commitment by a promise or an oath. But as a rule it is simply customary, and if one does not conform to this customary behaviour one is dismissed. The efficiency of a firm depends on the commitment of its employees.

I come now to a number of forms of customary behaviour which have a far more moral appearance: responsibility, fidelity and solidarity. These could, it is true, be referred to as virtues in the traditional sense, or they could be lived out in our sense as forms of being-human-well. Normally, however, they are no more than customary behaviour. Responsibility in politics does not refer to far-sighted or even caring behaviour, but simply means that one must answer for what happens in one's department. And answering for it does not imply that one is bound to make good any damage, but merely that one leaves one's post: to take political responsibility means vacating one's seat for someone else and drawing one's pension in peace.

Active fidelity can be a great deal more than mere customary behaviour. But as it is normally lived, fidelity has little to do with one's actual feelings: one simply does not have 'affairs'. The status

of fidelity as customary behaviour can be seen particularly clearly from the fact that its infringement, an affair, does not put an end to it; on the contrary, no effort is spared to preserve fidelity as the semblance which it is.

Lastly, solidarity. Solidarity can, it is true, be a dimension of being-human-well. But the average form of solidarity, and thus the form which has an essentially broad and collective effect, is no more than customary behaviour. Everyone is willing to be affected by what affects the others – I mean the relevant others, such as family members. No special moral effort is normally required for this. Especially in its customary form, solidarity enables us to see that customary behaviour is by no means contemptible, and can even move individuals to make significant sacrifices – if such a term may be used in this case. But solidarity as customary behaviour has limited influence, and usually does not go beyond allegiance to small groups, a family, a neighbourhood, an association.²³ Customary solidarity should therefore be distinguished radically from the demands of charity. For the latter requires us to be affected by what befalls *anyone*.

As a last example of customary behaviour I should like to mention honesty. It is customary to tell the truth because communication as information or, more correctly, as a system for exchanging statements, would otherwise not function. It is astonishing that Kant sought to use this functional argument to justify the prohibition on lying as a *moral* prohibition. But, as we have already said, expediency disregards morality. To tell the truth is *merely* customary. This can be seen from the difference between cultures on this point, a difference which, at the least, is one of degree. Even in our culture politeness is a form of customary behaviour which can have a strained relationship with honesty. Honesty is expected so that statements can normally be relied on. For this reason, honesty is enforced by admonition and sanctions.

I shall not say anything further about the area of customary behaviour. It is not of central interest to a philosophy of ethics. Indirectly, however, it will always be relevant. In a sense, what is customary is the preliminary stage of morality proper. Anyone who does not know what *people* do, and who has not mastered the area of customary behaviour, will hardly be able to go legitimately beyond it. And in the absence of deeper insight, or a commitment to something more far-reaching, it is always best to abide by what is customary. Politeness is paradigmatic of this. A polite relationship to another person is certainly not in itself an *authentic* relationship, and falls far short of personal engagement and encounter.

20 Introduction

But, given the high level of risk which is entailed in any personal encounter, it is always advisable to remain at least polite, or to keep open the way for a return to the level of polite intercourse. Moreover, as I have already emphasized, the mass-efficacy of ethics is only possible through customary behaviour. On the other hand, there is always a danger that customary behaviour will become a vehicle for inhumanity. This danger results from the generally restricted nature of the group upholding customary behaviour – a social stratum or class, an ethnic group – and from its historically and politically conditioned character. I need only recall that at certain times it was not customary in Germany ‘to patronize Jewish shops’ or to marry one’s daughter to ‘a member of a different religion’. In my youth it was still customary to beat children at school; in South America and Africa it is customary to circumcise women. And in Germany it is customary to regard contraception as the woman’s concern.²⁴ It can be seen from these examples that morality only really begins where one breaches customary behaviour, or works to change it.

Moral judgement and moral argument

It is generally believed that ethics has to do with action. Yet the subject matter of ethical theory and of practical ethical discourse is judgement of good and bad, right and wrong. The fact that ethics as theory and discourse is concerned with moral judgement, with moral argumentation, could easily lead to the view that it is actually irrelevant to action. For nothing guarantees that someone will act as they think, or that their capacity for judgement is in harmony with their ability to act. This confusion can be removed by making some basic distinctions. Moral discourse has, indeed, nothing to do with the individual’s capacity for moral actions. The ability to act depends on very different capabilities than does the ability to judge. And moral judgement and moral argumentation take place in a very different sphere, and have a quite different goal, to that of moral action.

Moral judgement and moral argument form part of the field of public opinion-formation. Sanctions, and therefore pressure to respect customary behaviour, can be applied through public opinion. But customary behaviour can also be altered by public opinion. That is even the most important function of moral argumentation. It serves to problematize customary behaviour, or

in some cases to legitimize it, or to prepare new forms of customary behaviour and build a consensus for them. This consensus can give rise to legal regulations. Conversely, the process of legislation which is carried on through parliament and public opinion frequently requires moral justifications. Legislation is by no means just a matter of convention. If it merely called for agreement, it could be arbitrary or simply an affair of the majority. In fact, however, what can be agreed upon is embedded in a context of moral conceptions, and, prior to agreement, arguments for this or that possibility are conducted on the basis of those conceptions. What the moral conceptions are, and which background contexts are being referred to in moral argumentation, generally becomes clear in the course of the discussion. They may be very deep-seated taboos, or basic values of the society in which one lives, or they may be human rights, or traditional, customary practices. In all cases, therefore, it must be said that moral arguments link conventions to a background of moral conceptions. These conceptions are never 'ultimate justifications' derived from some supreme or final principle, but are only the justifications which are necessary and called for during the argument. In the context of an argument in which certain questions are in contention, the argument will be carried on until a background on which the participants are agreed has been found, and on the basis of which the conventions under discussion can be debated. As a rule this background is rich and diffuse, not poor and specific. In this respect Apel's strategy of final justifications does not seem to meet the needs of real practical discourses. Moral competence as a capacity for judgement and argumentation consists, above all, in being able to relate existing problems to such backgrounds in regulating social praxis.

Of course, there are moral arguments which relate to particular actions. They arise when an actor or wrongdoer is called upon to justify an action, for example in court. Admittedly, the nature of trials is normally such that they are primarily concerned with ascertaining facts, which are then assessed in relation to laws, while moral arguments are used rather as qualifications to heighten or moderate the incrimination of the culprit. They are therefore usually put forward not by the defendant but by their counsel or the counsel for the prosecution. Corresponding more closely to the situation of moral justification is the everyday making of *excuses*. Here, one is concerned, for example, to justify one's failure to meet the expectations of others. In doing so, one will have to appeal to shared basic moral ideas. Structurally,

22 Introduction

therefore, the case is not different to that of the argumentation for certain regulatory standards, but it has an interest of its own in that the moral justification one gives for an action can be fundamentally different to the reasons for which the action has been carried out. Incidentally, the central objective of Kant's categorical imperative is to equate these two things – the moral arguments for an action and the reasons for carrying it out. This takes us back to the first part, to the question whether moral existence can actually be determined in that way.

The moral evaluation of particular actions and their moral justification do, in fact, play a major part in everyday life. The background of ideas to which reference is made in such justifications is not, however, very far removed from the actions. As a rule, the ideas relate to customary behaviour. At the moment when one goes beyond this background, the argument about particular actions turns into one about the legitimacy of customary behaviour itself. That is to say, the argument reverts to the one referred to as the first case – that moral arguments are those which lead to new social conventions relating to behavioural norms.

If I said earlier that moral arguments link behavioural norms to a background of basic moral ideas, that might be misunderstood to mean that I was simply talking about a transition to a higher level of generality, a transition, one might say, from laws to principles. That is indeed the case, but I also meant more than that. For the background one refers to is not only a background of principles but of concrete historical conditions. Both in the formation of social conventions and in the justification of particular actions, both of these, principles and situational background conditions, play a part. There can be a certain tension between them. At any rate, modes of argumentation can differ, depending on whether they give greater weight to principles or to situational conditions. In the debate about Kohlberg's stages in the formation of moral judgement these two alternatives were divided – not very felicitously – between male and female moral judgement.²⁵ That might give rise to hopes that, in considering social conventions as well as in judging individual actions, the best results would be achieved through a co-operation between men and women. Independently of any such considerations of differing competences in moral judgement, it can be said, at any rate, that a purely universalist morality cannot represent the truth. Rather, it is always necessary to take account of the historical and social context in which moral questions are posed and moral conventions are negotiated.