

**Title: On Positive Rights and Duties: What Can ‘Thin’ Universalizability Tell us  
about the Moral Content of Educational Policies?**

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## **On Positive Rights and Duties: What Can ‘Thin’ Universalizability Tell us about the Moral Content of Educational Policies?**

### **Education Grounded in Moral Agreement**

In order to function in a fair and just manner, goods ought to be distributed through the schooling system in a manner consistent with agreed-upon and justifiable principles of justice. However, if our principles of justice do not tell us something meaningful about the moral features of the object or subject of our agreement, it could be reasonably said that there is in fact no justifiable agreement at hand. After all, if persons establish a principle of justice as worthy of recognition by all, this recognition must be grounded in jointly understood, convincing reasons. If this were not the case, if we were to have overlapping endorsement but for *different* reasons, it would be better to call this a consensus or contract.<sup>1</sup> This could be construed as an agreement of sorts, but I do not think we would be comfortable in declaring this an actual, ‘strong’ agreement *per se*, as in ‘I agree that this principle of justice is right and valid for all’. In a consensus, I agree with you that we should abide by a certain principle or set of principles, but no more. However, I may not agree with you about the justification or right-making characteristics of the principle itself.

The distinction between this kind of strong, *moral agreement* and other types of agreement or consensuality is important when we consider questions about justice and its relationship to educational policy. Further comparison with political principles of justice may be warranted, here. The kind of distributive principles that are set out in works by John Rawls are important because they attempt to comprehensively express the moral importance and character of the general distribution of primary goods (Rawls, 2005). To

read Rawls is, among other things, to gain an understanding of the relationship between equality and freedom and the role that each plays in allowing every person to pursue one's chosen life-projects. The veil of ignorance, understood as a device of representation, is not a mere test for checking biases and identifying contradictions; rather, in working through Rawls' procedure one begins to develop an understanding of the wrong-making characteristics of distributive principles that are inequitable. This is perhaps why the veil of ignorance may be better understood as an expression of our already-existing moral intuitions regarding justice and fairness. Rawls attempts the tricky balance of justifying distributive principles of justice in a manner that tells us something of the moral nature of distribution itself, *without* relying on moral precepts that would exclude individuals who may have varying (but reasonable) conceptions of justice and morality (2005).

The same case applies to actual institutions – the basic structure of society. In order to function in a fair and just manner, goods ought to be distributed through the schooling system in a manner consistent with agreed-upon and justifiable principles of justice. Once done, we can say that that the distribution was a fair one, and schooling can contribute to a just and well-ordered society. Schooling, along with health care, the judicial system and so on, (ideally) plays a role in ensuring that persons in a pluralist liberal democracy can grow up to be autonomous persons who are free to rationally pursue their chosen conception of the good. Furthermore, controversial issues regarding the organization and execution of schooling can be resolved through an appeal to policies and norms of action that are derived or consonant with these antecedent, agreed-upon principles of justice.

At least this is one way of telling the story of justice for education. However, in this paper I would like to challenge such a rendering of justice, or at least make a case for why this approach does not account for the full picture of normative issues in schooling.<sup>ii</sup>

### **Complex Equality and the Moral Meaning of Goods**

Schools are institutions that are (ideally) formed through and guided by our most deeply held convictions about education. We might have a moral agreement on general political principles for institutions such as schools, but without some kind of shared understanding of the moral character of education itself, we might have difficulty in *applying* principles of justice in ways that make sense from the perspective of education as a moral practice. Michael Walzer comes to mind here, when he speaks of goods as representing a *social relation*:

[G]oods with their meanings – because of their meanings – are the crucial medium of social relations; they come into people’s minds before they come into their hands; distributions are patterned in accordance with shared conceptions of what the goods are and what they are for. Distributive agents are constrained by the goods they hold; one might almost say that goods distribute themselves among people.

(1984: 7)

So, if there is in fact something like ‘educational goods’, the application of principles of justice would have to address what such a good is, as well as its relationship to the persons that will benefit by them. Recognition, socialization, human development – what do these things mean from an educational standpoint? I think Walzers’ response is unsatisfactory, because the answer involves an endorsement of particularism – social

meanings are historical in nature, and so the normative distributions defined through those meanings are also historical. True, education is posited as a process wherein the school is an autonomous, special environment adhering to a certain ‘normative stricture’ (199). But other than these assertions, the character of that special environment and the validity of its normative orientation is entirely contingent upon contextual aspects of the society that are subject to change.

However, my objection is not with particularism or contextualism as such, but rather that Walzers’ solution returns us to a familiar problem. On the one hand, we can agree that there may be some generalizable principles that can be recognized as worthy by all reasonable persons – in this case, distributive principles. But these principles may be seen as being so ‘abstract’ that they leave us with little deliberative direction. On the other hand, one can respond by trying to show how issues of justice, like other normative claims, rest upon an unavoidable moment of judgement that can only get things ‘right’ if we have a robust account of the particulars. However, this claim opens us also to equally familiar objections to particularism and relativism.

### **‘Two-Level’ Theories of Moral Justification and Application**

This is sometimes characterized as a ‘two-level’ problem for metaethics. Namely, one could conceive of a moral framework where we have agreed-upon principles that provide warrants for particular judgements at the ‘local’ or contextual level (2000). The principle ‘one ought to distribute schooling resources equally’ helps to fix the relevance of reasons used in deliberations on how to best distribute those resources in particular cases.<sup>iii</sup> There are a number of potential objections to this kind of approach, and understanding many of the issues involved would require a discussion of complex

questions of moral justification and application that cannot be addressed here.<sup>iv</sup> Simply put, much of the controversy over “two level” approaches hinges on the fact that moral principles do not contain the rules of their own application, and questions of application might only be resolvable if we can stipulate a procedure for describing situations of application impartially as to not *a priori* privilege the relevance of one principle over another. After all, we can (and are) often selective in describing a moral controversy in order to favourably shift ‘rightness’ in one direction or another.

I would like to put the application question aside (for the moment) because I argue that by setting the issue as primarily a problem of abstraction vs. contextualism, or universalism vs. particularism, we miss out on important questions that need to be addressed about the moral nature of education itself. Specifically, it remains possible that the issue is not one of abstraction at all, but rather a failure to understand education as a field of practice and of intersubjective relationships that is home to a specific set or class of moral obligations. To put it roughly, I would propose that the ‘object domain’ of public education needs to be more fully understood, and until that is recognized, principles of distribution will come across as crude or ‘insensitive’ at the moment of application or justification.<sup>v</sup>

Earlier I claimed that any application of principles of justice would presuppose some account of what the nature of an educational good is, as well as its relationship to the persons affected by that good. We can now restate this in the following terms: principles of justice address what goods for *schooling* entail, which is an institutional question. This *by itself* is only a moral question insofar as we are asking how we ought to distribute goods, generally speaking. The ‘object domain’ is one of societal distribution

of essential resources and this is why principles at this level are (necessarily) abstract. But the relationship between these goods (and schooling practices, its form of organization, aims, and so on) and the persons receiving them is dependent upon prior moral considerations of what our obligations are to the subjects of the educational process. I argue that these obligations are identifiable *regardless* of the character, time place or nature of the particular institutions involved, schooling or otherwise. In other words, the matter involves questions about what is moral about education, in the sense that there are certain ways we ought and ought not to treat any person undergoing any kind of movement from a place of dependence and developmental vulnerability to something approaching rational autonomy.<sup>vi</sup> We might state the question differently: what is it, if anything, that we all owe to one another as individuals in the process of becoming persons, no matter what culturally or historically *particular* and *substantive* forms that becoming might take?

### **Education and Moral Universalism**

To ask such a question opens us up to strong objections concerning moral universalism. But, unless we recognize our prior moral duties and obligations to those we presume to be educating, answers to questions about distribution may unwittingly trump moral considerations that are exceptionless and non-negotiable, regardless as to what distribution would recommend on other grounds. In other words, *if* there is a universalistic moral core to education (and here I am only positing it as a possibility) then this moral dimension will necessarily trump whatever principles of distribution might typically recommend, or at least will require significant modifications in them. After all, it is not as if educational policies are judged for their moral rightness only *after* they have

been formulated and justified. All maxims and policies have implicit moral content (1996: 145)<sup>vii</sup> Accordingly, limiting the amount of additional resources we devote to certain disadvantaged persons might accord with justice as fairness, but it may not accord with our valid convictions about education as a distinct moral practice. Is it not possible that, faced with such a situation, all persons affected by or affecting such a distribution may recognize that a less ‘fair’ scheme is warranted given our convictions about what education morally entails, and what each can agree would be owed to one another in that circumstance?<sup>viii</sup> And if this *is* possible, what are the conditions that would allow for such a possibility?<sup>ix</sup>

Agreed, universalism is a contentious issue. But rather than engage in polemics about its cogency and value, what I propose to do is assume the possibility of a universalist position that aims to recognize the important issues raised by particularism. I would then ask that we accept this account for the sake of the argument, and move on to see what this universalistic moral dimension of education might look like.

### **‘Thin’ Universalization**

I intend to provide a consideration of what I term ‘thin’ universalization, which is represented by a number of contemporary Kantian moral theories. On this view, policies or principles are morally right if they can be universalized. Universalization intends to uncover features of practices, such as educational practices, that are uncompromisingly moral and therefore obligatory. I select what I take to be the ‘thinnest’ account of universalization and with some critical modifications, show how educational policy and practice can be informed by a more robust moral framework.

A “thin” universalist theory I understand to be any moral theory of justification that aims to establish a procedure testing the validity of a proposed policy or judgement while reducing, or if possible eliminating altogether, the metaphysical, naturalist or intuitionist presuppositions upon which universalization tests have typically been claimed to rest. I would include among such theories work by Jurgen Habermas in his discourse ethics, R.S. Peters’ procedural ethics, T.M. Scanlon’s ‘moral contractualism’ and Barbara Herman’s ‘deliberative presumptions’. Common across these projects is the attempt to modify the Categorical Imperative in order to make universalization more plausible i.e. rendering it more in accord with our common intuitions about moral deliberation *without* investing any final moral authority in such intuitions.<sup>x</sup> They differ most importantly, for the purposes of this paper, on what they take to be the character of generalizable maxims or interests - namely, some view that certain maxims identify moral duties that all can recognize as worthy (or all can will, or accept, or follow).<sup>xi</sup> Others, however, claim that Kant’s test is ultimately *prohibitive*, in that it can only identify morally impermissible maxims. All we are told by Kant is what we ought not to do and only through the negation or inversion of this non-generalizable policy do we establish our duties.<sup>xii</sup>

The latter criticism has important implications for the plausibility of universalization as a procedure for testing policies from a moral point of view. T.M. Scanlon, for example, can claim that his account of moral deliberation does not endorse radical egoism, or project untenable premises onto the cultural perspectives of diverse Others. Nor does he believe he has to appeal “conditions of rational agency” but only to the authority of requirements of justifiability to others (2000: 6). Here, the right or wrong-making force of moral reasons rests upon those reasons not being reasonably

*rejectable* by others, rather than on some substantive moral principle (for Scanlon, the concept of a reason is the most fundamental normative category). It supposedly works because it does not require us to ‘accept’ anything, in the sense that we must undertake the positive endorsement of a principle of policy in a manner that we have to commit every aspect of our life to fulfilling. We simply realize that there are some things that we ought not do, and the impermissibility of these policies sets out a framework within which we can act, or be obligated to act.

Scanlon’s approach is open to objections, of course, and this might mean that for some, universalization is still not thin enough. For one can always point out that his framework relies on an unrealistic idealization of persons, namely that being moral does not involve *actual* justification to others in the form of an agreement, but ideally *acting* in a way that is justifiable to others in ways they cannot reasonably reject (2000: 168-169). As Onora O’Neill puts it, “[a] vindication of ethical claims cannot be based on the ‘demands’ of some supposed idealized or transcendent reality, or on the characteristics of particular agents, or on the features of certain social practices or institutions” (1996: 125). Her alternative is to ground morality in the most inclusive and basic feature of action *itself* – human activity as a pragmatically unavoidable demand in the world, connecting all agents.<sup>xiii</sup> Since morality is included within the scope of activity, it can count as the ‘thin’ or common content through which the rightness or wrongness of what we do can be assessed. In other words, rather than determine the scope of what counts as ethical based on potentially arbitrary presuppositions about moral agents, O’Neill claims that we can construct the moral domain through critical reflection upon the assumptions we make about human activity. Human activity as a normative category is not a selective one, but a

real and unavoidable feature of the social world (99-100). Instead of drawing authority from a particular construal of justifiability and reasonableness, O'Neill makes the less contentious claim that moral authority is grounded in pragmatic presuppositions about others that we must necessarily make when we act – when I present a paper, for example, I must rely on others to be there to hear me give it. While this is in itself not moral *per se*, the assumptions I make when engaged in the activity cannot be dropped when ethical questions arise. I rely on others in order to present my paper and I cannot deny this fact if and when a moral question is raised, such as to the extent to which I ought to provide others with an equal opportunity to respond to my truth-claims. Any practice relies on others in some way. Accordingly, a moral principle is one that can be a principle for all, and hence fails to be universalizable if it cannot be viewed as acceptable by all, for its universal adoption would leave some unable to *act* (163). This might open doors into education as a moral dimension; if education entails a certain set of practices and intersubjective relationships, then there may be certain aspects of education that are universalizable matters of moral obligation.

However, in order to avoid charges of ethical rigorism and dogmatism in establishing moral principles, the logical priority of generalizability is exploited by O'Neill in the claim that our principles *reject* maxims that, when universalizable, would prevent some from being able to act.<sup>xiv</sup> Again, this purportedly opens up additional degrees of freedom through which individuals can conduct their lives *without* having to submit to an insensitive and unyielding conception of justice-centered morality.<sup>xv</sup> Furthermore, it allows moral considerations to enter the picture *other* than in the form of

positional goods (such as educational goods?) whose viability rests on at least some persons *not* having access to those goods:

Some suggest...universalizability fails...only for principles that, for example, mandate unique successes or attainment of positional goods...[h]owever, universalizability fails for significant ranges of inclusive principles which have nothing to do with the unique successes...Consequently rejection of non-universalizable principles can set demanding constraints.

(163).

These ‘demanding constraints’ can be used to tell us important things about the nurturing of persons and of educational endeavours without being uncomfortably prescriptive. As O’Neill says elsewhere:

Those who make indifference or neglect an *inclusive* principle<sup>xvi</sup> are committed not to help or to care for any others within the domain of ethical consideration to which they are committed. They could think of their principles of indifference and neglect as universalizable, only if indifference and neglect could be inclusive principles for all. Yet no vulnerable agent can coherently accept that indifference and neglect should be universalized, for if they were nobody would rely on others’ help; joint projects would tend to fail; vulnerable characters would be undermined...education and cultural life would decline.

(194).

Universalization thus understood provides a justification for educationally relevant moral obligations. Valid educational policies must always be informed by the following moral commitment: no policy can be proposed that, if adopted universally, would necessarily

leave some with an inability to adopt that same policy or principle. For example, in our contemporary social circumstances, literacy is essential for providing opportunities for agency. While Herman does not adopt the same formal position as O'Neill, her example is relevant:

Illiteracy prevents the acquisition of information necessary for effective action. In such circumstances, denial of opportunity to become literate could be judged an impermissible refusal (under mutual aid) to provide for agency-necessary needs.

(1996: 204).

Literacy characterized here not as a good but rather as an obligation to which developing persons have a right, and this right is established through a universalization test that reveals the moral content (i.e. obligatory status of) this educational practice. While literacy itself is not universalizable *per se*, maxims providing for development in ways that allow persons to act *are* universalizable. Consequently, educationally relevant rights and duties are established as morally obligatory in way that co-existing principles of distribution would have to acknowledge. One could not justifiably say that sacrifices to the literate development of some are justified only insofar as that policy works to the benefit of the 'least' advantaged. Literacy, in a modern educational context, is a policy that requires the recognition and treatment of all persons as ends-in-themselves.<sup>xvii</sup> It is as such a policy that is non-negotiable, and cannot be sacrificed to achieve particular (non-universalizable) ends.<sup>xviii</sup>

### **Limits of Negative Duties**

Of course, the case is not as tidy as this. A further objection arises, and its source resides in O'Neill's construal of universalization in the prohibitive direction. Specifically,

obligations of the kind that would be of interest to education cannot exhaustively be determined through the form of a justice-centered, principled morality. Because principles of justice are grounded in a *rejection* of non-generalizable policies, justice cannot determine precisely what we ought to *do* in this respect. The freedom gained by taking a prohibitive construal of the universalization test is made at the cost of significant deliberative uncertainty. We ought not to deny others access to literacy, but having established this stricture, what is “best” to do in a prudential sense, granted this fact?<sup>xix</sup>

In this particular account of universalization, obligations relating to questions of human welfare do not result in corresponding rights. In other words, individuals have no valid moral claim on non-specific others to provide them with basic needs:

[U]niversal rights to goods and services, such as welfare rights, are in fact unlike liberty rights. It is true that rights of both sorts need institutional structures for their *enforcement*, but liberty rights do not need institutional structures to be claimable and waivable. By contrast rights to goods and services can be claimed or waived *only* if a system of assigning agents to recipients has already been established, by which the counterpart obligations are ‘distributed’.

(O’Neil, 1996: 131)

The concern I think O’Neil has in mind here is that we could have a situation in which an individual could make a claim on some other specific person that this person has a moral duty to provide basic literacy skills, regardless of the latter’s own projects, expertise and life-plan. The claim of a right to literacy would be morally equivalent to claiming that you ought to help me if I am in mortal danger. Yet, we cannot reasonably expect everyone to drop what they are doing to meet the welfare claims of *all* others.

Accordingly, O’Neil’s suggests that institutions such as schools need to be ‘carried’, so to speak, through the fostering in the public culture of certain necessary social virtues that would encourage the role-specific persons that carry out the day to day life of these institutions to follow through on these valid but non-claimable obligations (184-209).

The result in some ways brings us back to where we began – to the two-level theory. A generalizable principle of rejection of causing injury, for example, might inform certain educational policies. But in reality, the level of abstraction entailed by the principle creates indeterminacies. More importantly, if we were comfortable (or pleased with) such indeterminacies, the level of abstraction in the principle would tell us little that is meaningful about education as a practice, morally speaking. How, when and why do I act on my social virtues? How do these virtues relate to justice, and how does this framework link up with the moral relevance of education? Schools might have a duty for literacy provision, but the reasons underlying that duty (freedom to act?) do not really tell us much about what is morally right with or required by the policy from an educational standpoint. Without this understanding, it becomes difficult to justify modifications to the distribution of goods in ways that do not come across as simply trying to make schooling an exception to the general institutional rule. To return to Herman:

Since literacy is not normally a good that functions outside an institutional context – schools, publishers – the moral failure in providing real access to literacy skills will not be one that is best or completely described as occurring between individuals.

(204).

While this remains true, it does not follow that the violation of a right can only be an actual *violation* if such violation can be attributed to certain role-specific others (note that Herman does not make that claim). Communities can fail morally, as well. The wrong and right-making characteristics of policies, individually undertaken or intuitively formulated, lie in the *reasons* used to justify them. Consider the extent to which the intelligibility of a maxim rests on intentions. I can observe you doing something. But I cannot morally evaluate what you are doing unless I understand your intention, your means, and your end. I see you refuse to help a child with her reading. There is a world of difference between refusing to help because you think that as a *general* policy the effort is best spent on more talented readers and for the greater good, on the one hand, and refusing to help because you believe the child has reached the stage where he or she needs to try on her own, at least for a while. While the latter maxim may be universalizable, the former is not. What remains unclear are the *reasons* why the former policy is non-universalizable – for agents, the rejection of a maxim or policy must do so for reasons that are intelligible for those same agents and that explain what is morally wrong about the proposal (Herman, 1996:140). O’Neil’s approach, while perhaps an effective heuristic for the testing of maxims, does not meet this criterion when we look to gaining a moral understanding of educational practice.

Some headway could be made if we overturned the very premise that limits universalization as rendered. Namely, that deontic morality is primarily *prohibitive*. Codifying moral principles *only* in the form of what one ought not to do is appealing because of its determinateness. Accordingly, they are easier to apply to concrete

situations and they avoid many of the confusions often attributed to positive duties. As Jurgen Habermas puts it:

Their *relative* freedom from the burden of problems of application establishes at most that negative duties enjoy a heuristic advantage, not that positive duties should be completely excluded from the sphere of what is morally justifiable, for problems of application can never be entirely ignored in the case of negative duties, either.

(1993: 65).

According to Habermas, the appeal of negative duties is reinforced through an overly individualistic conception of the person – morality is about freedom of action and rational choice. That persons could co-ordinate their actions and come to an agreement on what they *ought* to do in a positive sense is, on this view, too burdensome and unrealistic given the many competing self-interests between atomistic, private selves.<sup>xx</sup> Clearly, such an approach would make the construction of a universalistic moral framework for education a difficult one, because education is inseparably connected to processes of socialization and development, nurturing and care that go beyond prohibitions. But it need not be so construed:

[T]he integrity of the individual person, which calls for equal respect for all, cannot be safeguarded without simultaneously safeguarding the social fabric of relations of reciprocal recognition. Just as justice and solidarity are simply two sides of the same coin, so too negative and positive duties spring from the *same* source. If right and duties are to foster the integrity of individuals who are by their

very nature socialized, then the constitutive social context of interaction is not something secondary for those whose lives and identity are made possible and sustained by it. *Omissions* are no less a potential threat to person integrity than injuries actually inflicted.

(1993: 67-68).

Now it is possible to see universalization as doing more than rejecting principles of injury. We can also see how universalization tests can also identify positive duties to goods such as health care and food, but also to certain practices of socialization that are necessary for individuals in the course of their becoming persons. While this does not obviate the value of “social virtues”, it does suggest that there *are* determinate positive duties (and corresponding, claimable rights) that can be agreed-upon and justified. There may well be certain educational principles that all ought to accept (or reject) for reasons connected to the kind of active care and protection which all vulnerable persons in the human community have a right. These questions are indeed more taxing in a deliberative sense – once justified, who is to carry out these positive duties? When is it appropriate for them to be exercised? How much effort meets our obligation? These are difficult questions of application that cannot be taken up and resolved with the same determinacy as a general prohibition such as ‘One ought not to hit children.’ However, the fact that there are deliberative complexities regarding positive duties does not mean that such duties are not justifiable, nor that they are inapplicable. Rather, such duties may call for action above and beyond the call of principles of distribution.

Educational policies, like individual maxims, are justified on the basis of reasons. Sometimes these policies will be in place in order to help get the daily business of

institutions done. Others can work for the equitable distribution of increasingly scarce resources. However, other policies will be seen as the outcome of a moral agreement, where we recognize that there are rights and duties that all persons in an educational process possess are to be protected by – both as developing individuals *and* as equal member of the community. The character of these policies and the moral principles that provide warrants for them will involve a great amount of public deliberative work and a strong commitment in the public culture to a just education. Regardless, any morally valid approach to the development of vulnerable persons can only proceed with continual re-emphasis of the moral dimension of education as a field of practices and relationships, as indeterminate as that moral dimension may yet seem at present.

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<sup>i</sup> For more on this distinction in the context of John Rawls' work, see Habermas, Jurgen. (1998) "Reconciliation through the Public Use of Reason." *Inclusion of the Other*, Cambridge, MIT Press.

<sup>ii</sup> Few accounts actually pursue such a comprehensive project. However, I think that by putting such a strong emphasis on political principles, it may in fact overshadow or oversimplify complex moral issues pertaining to justice in education. Therefore, this paper aims to show why such an

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analysis needs to be extended deeper into normative questions concerning the moral nature of education.

<sup>iii</sup> This is because principles are used to provide warrants for reasons in justification,

<sup>iv</sup> But see Gunter, Klaus (1993) *The Sense of Appropriateness*. Albany, State University of New York Press and Habermas, Jurgen. (1993) *Justification and Application* Cambridge, MIT Press.

<sup>v</sup> On the importance of a more robust description of education as a moral domain, see Sanger, Michael (2008) “What we need to prepare teachers for the moral nature of their work.”, *Journal of Curriculum Studies*, 40(2) p. 196-185.

<sup>vi</sup> I take the term ‘educational process’ to be broad in a sense. I do this because when we start building in more refined definitions of education in this context, one is always open to the charge of question begging with respect to any normative conclusions that one may arrive at.

<sup>vii</sup> Equally importantly, it is not as if it is moral tests *themselves* that make a policy moral, rather, the test, as a test, assesses the moral content of each policy for its universalizability.

<sup>viii</sup> One might object that the difference principle is specifically designed for such eventualities; I claim that it is not. For example, if we to agree that the provision of the opportunity to develop basic literacy is a moral obligation, resources allocated for literacy cannot be withdrawn from the most-advantaged in order to benefit the least advantaged. To speak in such a way would not even make sense, from a moral point of view. The question is not about relative advantage or distribution of resources, but to what each person regardless of relative privilege is owed as an essential element in becoming a person, as a person. The distribution would have to be done in a way that *each person* can develop basic literacy, irrespective of how the resources need to be actually distributed to meet this obligation in particular cases. This will result in distributions that go counter to what the difference principle would typically recommend.

<sup>ix</sup> Obviously, there may be practical limitations involved. But is it not better to acknowledge the obligation first, *then* acknowledge the practical limitations, and then given these limitations, ask

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what our duty now is in light of *that* situation. For a rich discussion of practical limitations in the context of a so-called ‘conflict of duties’, see Herman, *The Practice of Moral Judgement*.

<sup>x</sup> The project is broader than that. It responds to sceptical objections in the literature, but the response is typically to treat these objections as understandable and reasonable, given the way we typically deliberate about moral questions. Issues include, but are not limited to: maxim-tailoring, the character of contradictions generated by the universalization test, questions of moral salience (i.e. how we recognize the policy is open to moral assessment in the first place?), monologism (how can I validly universalize *by myself*?) and moral phenomenology (what does it *mean* when universalizability fails?).

<sup>xi</sup> For a detailed discussion of this in respect to the Categorical Imperative, see Wellmer, Albrecht (1991) *The Persistence of Modernity* Oxford, Polity Press.

<sup>xii</sup> For example, Scanlon. The need to universalize is driven, not in order to determine what we can each endorse per se, but that it is only through such a procedure that we can find principles that others could not reasonably reject – “not because we might, for all we know, actually *be* them or because we might occupy a their position in some other possible world, but in order to find principles that they, as well as we, have reason to accept” (2000: 191). Impermissibility is the field that determines permissible actions.

<sup>xiii</sup> “What is assumed for purposes of activity must also be assumed in fixing the scope of ethical consideration.” (106).

<sup>xiv</sup> The key principle here being rejection of injury (O’Neil, 1996: 164-166).

<sup>xv</sup> Her concerns are laid out as follows: “Commitment to non-injury calls for living in ways that always favour non-injury over injury...Committing to rejecting injury demands less: it is not a matter of making a *principle of injury* fundamental to lives, institutions or practices.” (166).

<sup>xvi</sup> By “inclusive principle”, O’Neil means that a principle has the scope (or cosmopolitan character) to apply to all persons (1996: 28).

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<sup>xvii</sup> Let this not be taken as an attempt to universalize literacy itself as a policy – “It does not follow that one is committed to viewing literacy as necessarily making people better off regardless of their cultural circumstances. The point is to explain the circumstances in which literacy could become a moral requirement, the ground of a moral claim.” (Herman, 1996, 206). The maxim being universalized is one of provision of capacities to be able to act within one’s social context, *not* literacy *itself*.

<sup>xviii</sup> The obvious objection is that just principles of distribution *are* universalizable and hence their validity. True, but their scope is limited to obligations regarding *questions of distribution*. Educationally relevant obligations are not about distribution in the first instance; distribution questions come into play when we *recognize* the moral obligation to literacy, but have limited resources with which to practically meet this obligation. (There is no conflict-of-duty problem, here.)

<sup>xix</sup> The problem parallels debates over ‘imperfect’ and ‘perfect’ duties, as outlined in Kant’s *Groundwork*. Mutual aid is a duty, for example, but how, when, and in what character that duty is carried out is not something that is entirely clear.

<sup>xx</sup> Kant, for example, derived imperfect duties of beneficence and the development of talents by arguing that to universalize such a policy would be to undermine our *own* rational agency. See the *Groundwork* as well as Herman (1996) and (1976) *Morality and Rationality: A Study of Kant’s Ethics* Harvard, Harvard University Press.

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