

David Novak

Natural Law, Human Dignity & the Protection of Human Property

Ethics and Business

Being a major component of social life, where so much power is exercised over all of us, business or commerce presents great opportunities to do right and equally great temptations to do wrong. Here the ethical issues are ubiquitous. I shall get to the current ethical crisis in the business world shortly, but first let me tell you how I see the general relation of ethics and business or commerce, which is to my mind anyway, the theoretical aspect of today's crisis. Some very unethical ideas (the stuff of theory) has led and still do lead to some very unethical acts. Our right acts and our wrong acts most often begin in our heads. 'Learning God's law is greater than practice of it, since learning brings one to practice', states the Babylonian Talmud.¹ Here is where concern with business ethics begins.

To my mind, the most basic ethical terms are 'right' and 'wrong' or 'just' and 'unjust'. Most other ethicists, though, consider 'good' and 'bad' (or 'evil') the most basic.² 'Good' and 'bad' are primarily aesthetic terms, which are then transposed into ethics by analogy (see Novak, 2000, pp. 12-25).

[1] *Kiddushin* 40b.

[2] Note the commonality of three otherwise disparate modern ethicists on the primacy of the term and concept *good* for ethics: Moore, 1903, 1-36; Grisez, 1965; Levinas, 1969, pp. 102-3, 304-7.

So, for example, I can call a picture 'good' *because* its harmonious form gives me pleasure by looking at it. Thus the picture is *good for me*. It is hard to imagine anyone calling an *experience* 'good' if it did not give him or her pleasure, whether tactical, visual, audible, or intellectual. Furthermore, one can call an *act* 'good' if it is done well, that is, if it seems to accomplish what its agent intended it to accomplish.³ So, in business, for example, one can speak of a 'good deal' as being a transaction skillfully performed, but one could also say this about the deals of thieves, embezzlers, and swindlers.⁴

Thus judgments of 'good' and 'bad' do not in and of themselves involve *ethics* per se. When used in ethical discourse, an aesthetic term like 'good' presupposes an often unstated analogue.

Many people seem to think that the legal level will give us a more satisfactory plane for genuine ethical judgment. I disagree.

The basic legal terms are 'legal' and 'illegal', or 'correct' (that is, 'according to law') and 'incorrect' ('contrary to law'). One can speak of a 'good law' or a 'bad law', yet that can simply mean either a law (or a whole legal system) that pleases or displeases me, or a law that is consistent or inconsistent with the legal system (or constitution) from which it derives its authority.⁵ I could be speaking of a law within the Nazi or the Soviet legal system (or, maybe, the Iranian legal system today), or that system in toto. Very unethical acts—indeed, very horrendous crimes—have been justified (or rationalized) by the standards and procedures of such legal systems and the political regimes who have authorized them (Strauss, 1953, pp. 1–8, esp. p. 4, n. 2).

One could say that importing other modes of discourse into business or commerce is artificial, and will probably not affect the people it is supposed to guide. Such importation is what many philosophers would call a 'category error'. To many businesspeople, it seems the equivalent of applying the principles of German grammar to English speech. It seems like foreigners telling them how to run their own country (MacIntyre, 1988, pp. 1–11).

We can avoid this problem, I think, when we see that the most basic ethical terms are 'right' and 'wrong', or 'just' and 'unjust'. When we say that a transaction is 'right', we are not saying it necessarily benefits or pleases me or you. Instead, we are saying: *a right*

[3] See Aristotle, *Nicomachean Ethics*, 1.1.1094a1–18.

[4] See Plato, *Republic*, 351D–E.

[5] See Aristotle, *Politics*, 3.10.1286a9. Cf. Finnis, 1980, pp. 266–76.

transaction satisfies the justifiable claims of the parties of the transaction, and the justifiable claims of the society that justice be done. So, for example, when A is to render services to B in return for payment, the transaction is 'right' when A renders his or her services properly and when B pays for these services properly.

The likelihood of the transaction being performed rightly or justly will be far greater if it is performed well – that is, if it is performed harmoniously and if the parties in the transaction see their own respective interests benefited – but the pleasure taken in the transaction does not ethically ground the transaction. A may get pleasure out of being well-served by B, and B gets pleasure out of enhancing his or her reputation as a *good* credit risk, but the pleasure each party gets from the transaction itself, which includes the pleasure of personally dealing with competent and honest people, is a secondary accompaniment to the rightful transaction itself.⁶ This pleasure, which at best becomes the mutual pleasure of commercial friendship, enhances the rightful transaction.⁷ Therefore, pleasure taken in a rightful transaction is right, and pleasure taken in a wrongful transaction is wrong.

Business ethics is not a set of criteria from another discipline that is imported into or imposed upon the business world. It employs general ethical criteria that apply in other areas of human interaction, but the formulation of business ethics arises from within commercial experience itself. One could compare business ethics to biomedical ethics. In biomedical ethics, the questions to be addressed arise from within the whole biomedical enterprise, which leads to the constant search for cogent principles of ethics or 'practical' (as distinct from 'technical') reason. The fact that these principles are usually quite similar to those arising in other areas of human interaction only confirms the truth that universal principles always function within specific situations, and their particular application is *to* and *for* these situations, yet they are not produced by these situations.⁸ They are discovered, not invented. Were they discovered in only one area of human interaction, they might be rationalizations for particular practices. If business ethics had nothing in common within any other manifestation of ethics, we could suspect that business ethics is only a rationalization for certain business practices, rather than being a

[6] See Plato, *Philebus*, 63E; Aristotle, *Nicomachean Ethics*, 7.11.1152b1–24.

[7] *Ibid.*, 8.3.1156a15–20.

[8] See *ibid.*, 1.6.1096a11–b30.

set of principles that can guide these practices and even be employed to judge them, that is, to conclude whether they are right or wrong.

Natural Law Ethics

Natural law is a kind of ethical formulation. To my mind, it is the most philosophically astute kind of ethics. Since it includes those norms that can be seen to pertain to all humans everywhere at every time, it is discoverable by human reason anywhere at any time, even though the method of such discovery will vary from one culture to another (see Novak, 1998). The 'nature' in 'natural' law is universal human nature; the 'law' in natural 'law' is an imperative that does not depend upon the act of a particular human judge or human ruler to be known or enacted.

Thus 'universal ethics universally knowable' – for example, the type of ethics human rights activists employ (whether they know it or not) – and 'natural law' are interchangeable terms. That equation of universal ethics universally knowable and natural law becomes apparent once we see that the 'universal' here pertains to the humanly inhabited universe or human society per se, and the 'natural' here pertains to what enables human beings to make rationally justifiable, uniquely human, claims upon one another in that society.

We could say that ethics is to business practice what mathematics is to physics.⁹ Physics is not deduced from mathematics; instead, mathematics is suggested by physics in the sense that the language of physics, beholden as it is to *material* objects, cannot deal with its *formal* considerations adequately. That is the job of mathematics as theory. Mathematics *informs* physics, giving it an intelligibility it cannot give itself. Although suggested by physics, perhaps even called for by physics, mathematics is brought *to* physics; it does not come down from physics any more than physics is deduced from mathematics. (Even Einstein's highly mathematical physics needed experimental validation.)

Just as physics is not deduced from mathematics, so just business practices are not deduced from natural law. Instead, natural law reasoning is called for by the type of ethical problems that the language of commerce itself, beholden as it is to particular cases, cannot

[9] This is based on the insight of the German Jewish philosopher Hermann Cohen (d. 1918) that ethics functions as the logic of the human sciences (*Geisteswissenschaften*, or what we now call the "social sciences", which might very well include "business administration" as well as economics). See Cohen, 1981, pp. 65, 227.

answer, because it cannot provide adequate concepts to deal with their universal or rational considerations. That is the job of natural law as theory. Just as mathematics provides physics with its formal language, natural law provides business practices with their reasons.

Therefore, just as one would not speak of '*the* mathematics' but simply 'mathematics', one should not speak of '*the* natural law' as if it were some sort of object, but of 'natural law', as a form to be applied to any positive human situation. Yet that cannot be done before one is already engaged in that situation. One lives natural law *through* positive human situations, not apart from them. It is a method for clarifying and deepening the moral meaning of these human situations.

This relation *between* ethics and these positive human situations is important to bear in mind when natural law advocates are accused of 'imposing' their philosophical or even their 'religious' views on situations many assume are 'none of their business'. The answer is that we are only using natural law concepts to bring out whatever moral meaning is already latent within these situations themselves. Natural law is not a positive substitute for anything.

The Political Culture of Thieves

Now, what does all this theory have to do with the current crisis of criminal misconduct at the highest levels of American and global business? Do we really need this theoretical background to discern that theft is wrong and thieves should be forced by the law to make civil restitution to their victims, plus have criminal penalties imposed upon them? We do need to think about something deeper. We need to think about a relatively new political culture from which too many of us get our ethics or moral principles. (I use the terms 'ethics' and 'morality' interchangeably here.)

The political culture of which I speak is one that encourages immoral conduct even when it doesn't explicitly mandate it. That encouragement is often a form of implied or tacit approval.¹⁰ It provides no good reason to judge these acts to be immoral rather than just stupid – that is, the stupidity of being too greedy, so that one gets caught for the stupid (in some cases, flamboyant) exercise of greed. This political culture of economic opportunism is antithetical to the political culture that looks to natural law ethics for the formulation and reformulation of its standards, or, if you will, its 'values.'

[10] See Babylonian Talmud *Sanhedrin* 27b re: Leviticus 26:27.

Some of our corporate thieves have internalized this political culture and rationalize their immoral acts by its values or standards. Some sympathize with them, perhaps hoping to learn what not to do from their error in getting caught. And others can't summon up any genuine outrage at what they have done. So we need to examine the political culture that has encouraged and rationalized executive thievery, for those who have actually engaged in it, for a larger number who might want to do it more cleverly, and for an even larger number who have no good reason to judge it to be wrong.

What is new is not what these thieves have done or even how they have done it. What is new is the political culture that has deprived them of the capacity for any real agony before they steal, or the capacity for any real remorse after they have stolen, even after they have been caught. What is new is the political culture that has deprived too many of us, who are not thieves, of the capacity to demand any real regret from those who are thieves, because we have lost the capacity to judge thievery with any real opprobrium.

Executive thieves are not like the lone bandits who used to rob stagecoaches. The fact that they are outlaws does not mean they are social outcasts. Quite the contrary. They are very much social insiders. They could not possibly have done what they have done without being participants in a society called a 'corporation', which functions within a larger civil society. These intricate social systems operate according to elaborate rules and procedures, which these executive thieves have had to convince others they fully endorse and subscribe to in order to gain their trust. Without that public affirmation of morality, these thieves could not have gained enough trust from others to be able to deceive them in the way they did. In the Talmud, lying to someone else for the sake of obtaining from him or her what does not belong to one is called *genevat da`at*, that is, 'stealing somebody else's good opinion'.¹¹ Such deceit enables one to be a thief rather than a robber, because the deceitful thief has so disarmed the victims that they are oblivious to being 'robbed blind', only noticing the theft after, often long after, it had taken place.

These thieves fully endorse and subscribe to social rules in public, but violate them in private, and do so with a sociopath's lack of shame, even when their misdeeds are finally exposed and judged in public to be wrong. This type of bad human conduct is uninformed by the basic norms of natural law. We now need to look at the politi-

[11] Babylonian Talmud *Hullin* 94a; Maimonides *Mishneh Torah*: Deot, 2.6.

cal culture that makes such a radical difference between the public and private realms, approving of acts in one realm that it condemns in the other.

Public Virtue/Private Vice

Nobody who has any stake in the successful functioning of their society could deny that society must have institutions to protect its citizens from harm to their bodies, and to their property as an extension of their bodies, and norms that prescribe punishment of those who violate the body or the property of a fellow citizen. This is what Isaiah Berlin famously called 'negative freedom' (Berlin, 1969). The punishment for the violation of this negative liberty is both civil and criminal: civil in terms of arranging for the payment of restitution for the loss of use of one's body or one's property, criminal in terms of incarceration (and, in some societies, even capital punishment) for the suffering caused by the violation of a body or its property.

That is society's duty to its citizens. (Whether society has some more positive duties to its citizens, what Berlin called 'positive freedom', let alone what such rights are specifically, is a question every society must answer for itself (*Ibid.*, pp. 131–4).) When society cannot exercise its duty to protect its citizens from crime (even if it does fail unwillingly, because of lack of means), society—in the person of those who have authority in it and for it—cannot expect its citizens to dutifully respect that authority by obeying its laws. In other words, society has a claim upon its citizens that obliges them to accept its protection of their bodies and their property. But the citizens themselves have a prior claim on society that obliges it to protect their bodies and their property.

In this view, the claims of individuals upon society precede society's claims on them, even though historically speaking, society is there before any particular individual comes to it either by birth or by choice. Their claims are, in this view, basically selfish: they require society to protect them and their bodies and their property, in return for which they promise to cooperate with it in its duty to protect the bodies and property of their fellow citizens. The sole reason for one's adherence to social norms is the promotion of what one believes to be one's own good. Citizens need society and its institutions (primarily, the police and the courts) for private self-interest. In this view, we are all private beings, only becoming public beings (law-abiding citizens) to enhance our private interests. This kind of society is primarily a collection of strangers. Nobody is there

because he or she desires the friendship or even the company of their fellow citizens. One's interest only includes the members of one's own select interest group, and membership in that group is ephemeral.

There is no idea here of society being a communion of persons, one whose institutions are designed essentially to promote political communion or interpersonal interaction itself as an end in itself.¹² Without a notion of common purpose, which stands over and above individual interest (without obliterating individual economic interest, as was done by Communism) and is more than the interest of the majority (as in utilitarianism), self-interest can be the only reason those having political authority could possibly want it. Their motive in seeking political power can only be that their own self-interest consists of wielding power over their fellow citizens. (All too often, power-seeking politicians loot public funds as a symbol of their political power; hence their misdeeds are more the result of the desire for recognition than of mere physical appetite.)

Politicians of this individualist frame of mind convince their fellow citizens that they exercise power in the citizens' best interest. The citizens may want government protection from criminals domestic and foreign the government to help bring about a higher standard of living. The question is who has political power, how it is wielded, and why anyone would want to wield it. And this problem exists whether the official ideology of the society is socialism, or the unofficial ideology of the society is capitalism. Though at this level, it can indeed be said for the preferability of capitalism that a society with a robust private economy will have greater private scrutiny of public officials than a socialist regime where there is no such economic 'balance of power.' Nevertheless, when governmental scrutiny of the private sector is very much out of balance with the private sector, we get an age of 'robber barons.'

In this notion of a contractual state, there is an exchange made between political authorities and ordinary citizens. That is an exchange between the rights and duties of each side: society's claims *on* its citizens and its duties *to* them, and individual citizens' claims *on* society and their duties *to* society, which is to obey its laws, and to follow the orders of the political authorities when they function in a lawful manner. This exchange becomes manifest at those times

[12] See Aristotle, *Politics*, 1.1.1253a9–40.

when each side has to *promise* to live up to its commitments to the other side.

I will now use the first person in the way a phenomenologist attempts to 'get inside' the experience of which he or she is describing.

Who Can Be Trusted?

At the most basic level, the relationship between individuals and society requires trust. I must be able to trust the commitment or promise or pledge of others to me; others must be able to trust my commitment or promise or pledge to them. The question is then: 'Why should I trust you, and why should you trust me?' (see Novak, 2005, pp. 205–12). Following the self-interest theory we have been examining, one could say that I gain the trust of others in my own self-interest. Others would avoid me if they thought that I would steal from them once their backs are turned.¹³ Nevertheless, couldn't I gain the trust of others to put them off guard long enough to take more from them than I could if I suddenly and openly robbed them like the lone stagecoach bandit of the Westerns I thrilled to as a child? Thieves who operate this way, by betrayal of the trust others have placed in them, used to be called 'confidence men.'

But what about the law? I know quite well that I wouldn't be able to steal corporate funds if there weren't an elaborate system of law that enables corporations to function in a lawful society. I am not an anarchist (most of whom live in the wilderness or on the streets, not in board rooms). I certainly do not want everyone to do what I am now doing. But the authority of my society and its laws serves my self-interest by doing two things for me: one, it protects my property from being stolen by others with impunity, and two, it enables others to accumulate more property than they could do in an anarchic social situation, thus providing me with more to steal. So while I am grateful to society for providing me with such good opportunities to steal, and providing me such good opportunities to spend and enjoy in public what I have been able to steal privately, I have to consider the fact that I might get caught by 'the law', that I could be impoverished by the fines levied upon me by the court, and lose my liberty by going to prison. When considering this possibility, my only deliberation consists of a cost-benefit calculation. What are my chances of

[13] See Plato, *Republic*, 359D–360D.

getting caught? Is the gain I know I can get now worth the risk of the punishment I *might* get later?

The 'remorse' a number of convicted executive thieves have shown (usually between the time of their conviction and the time they are sentenced) seems to be little more than a ploy to get a lighter sentence, than it is an acceptance of true justice. We need to ask: If the remorse shown by those who have imbibed the political culture that judges self-interest to be right *per se* seems phony to us, what sort of remorse would be more genuine? If remorse is the proper expression of shame for having done something inherently wrong, what sort of political culture encourages people to be ashamed of what they have done and be remorseful about it? And in what sort does the fear of being publicly shamed and personally *ashamed* become an incentive not to risk shame? My internalization of the fear of being ashamed of what I could do is what we call 'conscience.' What sort of a political culture encourages the development of conscience?

Conscience and Political Culture

A culture that cannot distinguish between neurotic 'guilt feelings' and genuine shame cannot tell us why remorse is required of those who have done wrong. Lacking a good reason for remorse, it cannot provide the means for anyone who has imbibed its values to express his or her remorse and truly *mean*—that is, honestly *intend* to say—what he or she is saying. Such a culture cannot encourage the development of conscience by its adherents.

At this point, it might be helpful to remember the motto that introduced some of the great codes of Roman law: *Honeste vivere* ('to live with honesty or integrity'); *alterum non laedere* ('not to harm another'); *suum cuique tribuere* ('to grant each his own').¹⁴ In other words, those who live dishonestly, affirming one standard in and for the public and acting upon an opposite standard with and for themselves, such people will usually have no qualms about harming others when that is in their self-interest, and they will usually regard everyone else's property as theirs potentially, that is, as grist for their mill.

The key, then, is to distinguish between a political culture that cogently encourages one to be ashamed of wrongdoing, and a political culture that only pragmatically judges the good or bad consequences resulting from the exercise of one's self-interest or actually approves of what one has done. That kind of culture only pities the

[14] Ulpian *Digest*, 1.1.10.1.

criminal for his or her bad luck in getting caught, and especially for having to 'do hard time' in prison. Such pity is born of the sympathy felt for the poor fool about whom it might be said: 'There, for but my good luck, go I'.

I remember a time about twelve years ago or so when my wife and I were invited to a party being hosted by a social acquaintance, a woman whose husband had just been released from prison, having served a short sentence for having defrauded a large number of investors in his company, most of whom were barely indemnified for their losses – if at all. The invitation actually said that this party was a 'celebration' of her husband's 'homecoming', and that he had been 'the victim of an unfortunate misunderstanding'. Knowing him to have been quite civil, even charming, to us in our social interactions with him – and, fortunately, not having invested in any of his business ventures – our first reaction was to accept this invitation. After all, this couple had always hosted great parties in the past.

But my wife, being a better judge of character than I, quickly came back to her moral sense, and just as quickly brought me back to my moral sense. She said that were she this man's wife, she would get him and herself out of town, and maybe even change their name and try to assume a new, anonymous identity somewhere else. But when we didn't accept this invitation, not giving our reasons lest we add to the embarrassment of this convicted felon and those nearest to him, we heard that we were criticized by some of his social circle for being 'moralistic and judgmental'. Apparently, we are adherents of a different culture than this man, his wife, and their friends.

Rights and Duties

Philosophically speaking, where does the error of this political culture of economic opportunism lie? And what is its obverse? I submit that the error lies in a false correlation of the idea of rights and the idea of duties. The political culture that has encouraged executive thievery has a skewed notion of the relation of rights and duties.

Rights are the justifiable claims one person (or persons) may make upon another person (or persons). Duties are the valid responses to the justifiable claims one person (or persons) is obliged to make to another person (or persons) (see Novak, 2000, pp. 3–12). Rights and duties are correlative; that is, you can't have one without the other. Natural law is the set that includes all rights/duties correlations that can be taken as universal in scope and are universally intelligible. Thus an unjustifiable claim—such as 'give me all your money',

which I can tacitly take without your knowledge and consent—entails only one valid response, which is my duty to disobey (even though considerations for my own life and safety might well require me to obey such an unjustifiable command). That duty can be fulfilled before the fact by my strengthening my right to keep my own property away from thieves like you. And that duty can be fulfilled after the fact by my filing charges against you.¹⁵ Even when you force me to give you my money (whether at gunpoint or more subtly, say, by economic threats), I can still disobey inwardly, in the sense of not recognizing your ‘claim’ as a right I ought to honor. The question is: If rights and duties are correlative, which one has priority? Are duties created by rights, or are rights created by duties? Another way of putting the question is: Do *my* rights precede *your* duty to respond to them, or do *your* rights precede *my* duty to respond to them?

Logically speaking, a right as a claim creates the duty to respond to that claim. If, minimally, a claim is a request (maximally, a command), a request intends a response or an answer to it, even when there is no actual response in fact. (If it continually gets no response, it is futile but not unintelligible.) Thus a claim *initiates* a response, whether successfully or not. But a response when there has been no prior request is meaningless.

The question, though, is how one experiences the order of an exercise of a right and the exercise of a duty. I experience the exercise of your right, your claim upon me for a dutiful response, before I learn how to make my claim upon you for your dutiful response to me. That, of course, assumes that you are there in the world before I am. Hard as it is for children to accept, they come into a world that has been there before them. They must learn how to respond to the claims of those adults already there, waiting for them. Only then can they learn how to make their own claims upon those they encounter in the world.

And, as we know from child psychology, when children’s basic experience of claims is the experience of unjustifiable, self-serving claims made by those who are supposed to care for them, they often never learn how to make justifiable claims upon others. Such children become adults who are convinced that making a rights-claim is the equivalent of screaming a threat. They become the type of adults who demand or take what they want because they want it, instead of

[15] See Babylonian Talmud *Baba Batra* 40a. Cf. Babylonian Talmud *Shabbat* 88a.

asking and working for what they need because they deserve it and because they can justify – that is, rationally argue for – what they need.

At the most basic level, that just dessert is not because of what a person has done to earn it, but because of who that person is in the world. Jews and Christians formulate the claims of human personhood best when they assert that human nature is most unique in being the *imago Dei*, ‘the image of God’ (see Novak, 1998, pp. 167–73). *What* the sanctity of human personhood is can only be positively constituted by revelation. But, even without revelation, we can discern *that* human personhood reflects a source beyond the world, and that is why human persons are deserving of respect (see Novak, 2007, pp. ix–xiv). This is what the Jewish tradition calls *kevod ha-beriyot*, ‘human dignity’.¹⁶

I am a ‘me’ who is addressed by another, before I am an ‘I’ who addresses others. All such address is based upon need: You need something from me, I need something from you. And there is always a ‘you’ in the world that becomes *my* world before there is a ‘me’ cast into this world thereafter. When your rights and my duties, *then* my rights and your duties, are properly correlated, we can intelligently affirm a world that is *our* world. Yet this common world is not our possession. As the biblical story of the Tower of Babel teaches, when humans regard the world as their possession, it inevitably leads to the exploitation of one group of humans by another in the process of robbing God of what rightfully belongs to Him alone.¹⁷

Because of our mortality, we can only hold some possessions temporarily. And because of our mortality, even what we rightfully purchase (with our money or with our labor) is at best a long-term lease, not a permanent endowment. When we are truly honest with ourselves, we learn that we are just passing through this world, that we are tenants and not landlords. Yet, even as mere transient tenants, we ought to keep up the property as best we can, making it as comfortable for ourselves and the other tenants as possible.¹⁸ Furthermore, when philosophy properly reflects on human nature from our perspective, it can teach us *that* we are transient tenants in the world. But when theology properly reflects on human nature from a divine

[16] See Babylonian Talmud *Berakhot* 19b re: Deuteronomy 17:11.

[17] See Genesis 11:1–11, also Ginzberg, 1909, pp. 179–81.

[18] See Aristotle, *Politics*, 2.2.1263a25–1263b29.

perspective, from the perspective of the Master of the world, it can teach us *whose* guests we are in the world.¹⁹

When we have acted as ungrateful guests in the world, taking without giving in return, our place in the world restrains us and punishes us as it must – even if our sub-place or ‘counter culture’ in the world gives us its approval. Our counterculture has done us no favor when it deprives us of the ability to feel and express remorse, let alone seek an authentic expiation. How can I feel the moral outrage I want to feel at what somebody else has either done to me or is likely to do to me, when I felt no moral outrage, no shame, when I did the same thing or was likely to do the same thing to others?²⁰ How can I ask for forgiveness from my fellow guest in the world and from the host of the world, if I cannot believe myself to have really done wrong, to have acted against greater social communion rather than for it?

Despite all my action that presumes that I *begin* the world, the truth is that the world *began* long before me, and will endure long after me. Moreover, no matter how wretched my origins may have been, the world did welcome me by affording me the opportunity to survive, maybe even to flourish. That in all honesty I cannot deny. That is why I *owe* the world more than the world *owes* me. Thus I need the means to feel and express shame for my betrayal of my obligation to work for the common good (which can certainly include my own justifiable exercise of self-interest as in my rightful acquisition of private property).

And that means the world’s claim on me to benefit it as much as I can is greater than any good I pursue for myself. Without the means to seek expiation from the Master of the world for my ultimate betrayal, I will die unreconciled to the world, which did more for me than I could ever do for it. A political subculture that denies me opportunities for the reconciliation and expiation my being-in-the-world surely needs, that subculture has not only enabled me to harm others easily, it has harmed me by making me, in the deepest sense, ‘a restless wanderer on earth’ (Genesis 4:14).

Bibliography

Berlin, Isaiah (1969), “Two Concepts of Liberty”, in *Four Essays on Liberty* (Oxford: Oxford University Press), pp.122–34.

[19] See Leviticus 25:6; Psalms 23:6.

[20] See Babylonian Talmud *Shabbat* 31a.

- Cohen, Hermann (1981) *Ethik des reinen Willens*, 5th edn. (Hildesheim and New York: Georg Olms Verlag).
- Finnis, John (1980), *Natural Law and Natural Rights* (Oxford: Clarendon Press).
- Ginzberg, Louis (1909), *Legends of the Jews*, vol. 1 (Philadelphia: Jewish Publication Society of America).
- Grisez, Germain G. (1965), "The First Principle of Practical Reason", *Natural Law Forum* 10, pp. 168–201
- Levinas, Emmanuel (1969), *Totality and Infinity*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press).
- MacIntyre, Alasdair (1988), *Whose Justice? Which Rationality?* (Notre Dame, IN: University of Notre Dame Press).
- Moore, G.E. (1903), *Principia Ethica* (Cambridge: Cambridge University Press), pp. 1–36
- Novak, David (1998), *Natural Law in Judaism* (Cambridge: Cambridge University Press).
- Novak, David (2000), *Covenantal Rights: A Study in Jewish Political Theory* (Princeton, NJ: Princeton University Press).
- Novak, David (2005), *The Jewish Social Contract: An Essay in Political Theology* (Princeton, NJ: Princeton University Press).
- Novak, David (2007), *The Sanctity of Human Life* (Washington, DC: Georgetown University Press).
- Strauss, Leo (1953), *Natural Right and History* (Chicago: University of Chicago Press).