CHAPTER 1

TWO MEANINGS OF UNHAPPINESS

1. INTRODUCTION
We begin, in traditional fashion, with the notion of the autonomy of the individual: autonomy with respect to the social body and its influences, that is with respect to the whole of which the individual is a part. We shall then examine a number of problems concerning the relationship between whole and part on the premise that our conception of the political whole is among the most important in orienting any discussion of the relationship between law and morality. To this end we shall first attempt to explain in the most basic of terms the notion of political happiness. This notion has an advantage: on the one hand, eudaemonological considerations often form the underpinnings of perfectionist argumentation; on the other hand, the idea of happiness can be related to the more abstract question of the relations between the whole and the part (when one is concerned with the politico-juridical whole). The concept of political happiness thus forms a kind of bridge which allows one to study the intersection and partial overlapping of these two series of problems.

2. ARISTOTLE AND KANT ON HAPPINESS
Concerning happiness, the well-known opposition between Aristotle and Kant is widely taken as a fundamental point of reference. For Aristotle the notion of “happiness” is vital to any serious thought on the polis, whereas it was Kantian political philosophy that bequeathed to liberal thought its anti-eudaemonistic orientation. In fact Aristotle and
Kant have represented, and represent, two alternative traditions for those writers who, especially in Germany, have confronted (with very different results) the delicate issues of ethical judgement and its foundation in response to the revival of interest in practical philosophy (Riedel 1972-1974).

The opposition between Aristotle and Kant is in effect only one of numerous such contrasts, many of which necessarily overlap. We of course cannot ignore, for example, the more classic distinction between "ancient ethics" and "modern ethics", and well known is Ernst Tugendhat’s revival of this distinction in the paper presented in Heidelberg on the 11th of February 1980, on the occasion of the 80th birthday of Hans Georg Gadamer. His approach deserves attention (leaving aside the conclusions reached) because it attempts mediation or integration between the model of the categorical imperative and that of practical wisdom, between Kant and Aristotle; and here the question of happiness is decisive. Like Gadamer himself before him, Tugendhat imbues the two authors with a special meaning which is, as it were, paradigmatic, with the two necessarily representative of the contrast between ancient and modern ethics; this, however, he rightly does with certain reservations and a great deal of prudence. Gadamer, in a paper presented a Walberberg in 1961 (Gadamer 1967), held that the two positions were not susceptible to reconciliation but utterly distinct and alien. Not so Tugendhat.

Tugendhat accepts from Gadamer the peculiarity of the Aristotelian concept of *phronesis*, this in contrast with Kant’s “ethics of the law”, whereby that which is just emerges in any given situation from the deduction made from a universal moral principle. According to Aristotle what is just in any given situation emerges not from deduction but from the particular circumstance characterizing that situation. One thus discovers in the “modern” ethics of Kantian origins a strongly prescriptive claim unknown to ancient eudaemonism.

Mediation between these two positions, as attempted by Tugendhat and prohibited by Gadamer, carries with it more than one complication. We cannot base any moral system simply on the “given” ethical sense which is present for historical reasons in any particular situation; the modern need for founding criteria which must legitimize, through self-justification, ethical judgements concerning the duties of the individual is radical. Aristotle himself did not mean to give normative value to a preliminarily given situation. The radicalization of the criteria which legitimize judgements -- practical as well as theoretical -- is, however, a crucial factor in distinguishing modern from ancient thought;
and we cannot go back. According to Tugendhat, thus, once disembarked on the shores of the Kantian moral system, with its rigorously aprioristic foundations, Western thought has burned its ships behind it.

Comparison of ancient with modern ethics, however, cannot be confined to formal considerations -- important as these are -- but must also deal with the problem of the aim of ethics. This characteristically means finding in happiness the privileged object of ancient ethics, as opposed to Kantian or utilitarian ethics, which priviledge intersubjective norms (Tugendhat 1984).

Tugendhat thus reproposes not only the Gadamerian centrality of phronesis, but also that of eudaimonia. This theme too must, of course, be adapted to current methodology ("current" meaning "post-Kantian"). Since the problem of what is morally good has become that of what is good for each individual, the problem of happiness (essential to ethics) becomes that of the aims of our will, thus of our genuine versus false needs. Help, once again, comes from the Greeks, who dealt with the question of happiness in terms of health. Here one finds a last echo of Gadamer, of that Gadamer who noted that Aristotle considered the faculty of real-life ethical judgement, phronesis, not distinct and autonomous but dependent on an appropriate sentimental constitution (i.e. a correct upbringing; see Gadamer 1967, 187).

To confront the antique question of happiness in terms of contemporary methodology one must, then, deal with the problem of the aims of the will. This in turn calls for a distinctly defined conception of the human being, which displaces these considerations to the sphere of psychology (Tugendhat 1984). This question is, of course, complicated by the formalistic (neo-Kantian) principles whereby one attempts not to sacrifice the claims of modern methodological rigor, which means articulating a formal conception of psychic health.

The question of happiness in fact poses the problem of whether or not there exists some objective criterion to determine if and when things "are going well or badly". This actually happens when we deal with heath and illness. One can therefore attempt to transpose this concept to the individual psychic constitution.

Greek medicine defined health, including mental health, in terms of harmony and equilibrium. This path was also taken by Erich Fromm; if illness is a dysfunction, an imbalance, it becomes necessary to identify a conception of disturbance in psychic activity corresponding to the concept of physical illness. Tugendhat has found all of this in a paper by Lawrence S. Kubie (Kubie 1954).
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