Schopenhauer's Theory of Justice

Raymond B. Marcin

_The Catholic University of America, Columbus School of Law_

Follow this and additional works at: https://scholarship.law.edu/scholar

Part of the Law and Philosophy Commons

**Recommended Citation**


This Article is brought to you for free and open access by the Faculty Scholarship at CUA Law Scholarship Repository. It has been accepted for inclusion in Scholarly Articles and Other Contributions by an authorized administrator of CUA Law Scholarship Repository. For more information, please contact edinger@law.edu.
SCHOPENHAUER'S THEORY OF JUSTICE

Raymond B. Marcin*

"[I]n all that happens or indeed can happen to the individual, justice is always done to it."

Arthur Schopenhauer**

There is a curiosity about Schopenhauer. Most people know his name but little or nothing about his philosophy. If pressed, many would identify him as a precursor of some aspects of fascism or Hitlerism, and perhaps he might have been, but his philosophy was not. The truth is that we would all be much better off if we knew something about his philosophy, but forgot his name, for Arthur Schopenhauer was a strange rarity—a true prophet who did not practice what he preached.

Schopenhauer's theory of justice, the reader should be cautioned, is radical in the extreme. Justice, in Schopenhauer's system, is not an epistemological construct. It is neither rights-based nor process-based. It rejects the concept of individual duty as vehemently as it embraces the concept of collective guilt. For Schopenhauer, justice is not a way of assessing reality. For Schopenhauer, justice is a facet of reality itself. Schopenhauer's theory of justice is, thus, an ontology, a study of being itself.

There are reasons why a review and a re-evaluation of Schopenhauer's theory of justice are worthwhile now, almost two hundred years after it was first formulated. One is that his theory of justice, based squarely on his theory of metaphysics, seems remarkably consistent with the view of reality that is taking shape in the minds of contemporary quantum physi-

---

* Professor of Law, The Catholic University of America. A.B., St. John's Seminary; A.B., Fairfield University; J.D., Fordham University; M.S.L.S., The Catholic University of America. The author wishes to thank Antonio S. Cua, Ph.D., Professor of Philosophy, Jack R. Leibowitz, Ph.D., Professor of Physics, and Jude P. Dougherty, Ph.D., Dean of the School of Philosophy of The Catholic University of America, for reviewing and commenting upon earlier drafts of this article, and Attorney Richard F. Oburchay of Bridgeport, Connecticut, for a lifetime of encouragement and support.

Another reason is that the metaphysical basis of Schopenhauer's theory of justice bridges a gap that has long existed between Western and Eastern approaches to philosophy. Yet another reason is that some contemporary jurisprudential movements, such as critical legal studies, civic republicanism, and new legal process jurisprudence, have taken an interest of late in the concept of "community," the idea of community in its most basic and most literal sense is at the heart of Schopenhauer's definition of justice. Also, Schopenhauer's theory of justice yields concepts of law and legal responsibility that are distinctly behavioristic in tone, and recent scholarship in the area of legal pragmatism and law-and-economics theory suggests a trend in the direction of behaviorism. Finally, the concept of justice has almost always been examined, in the legal literature of the past and present, from an epistemological vantage point. Seldom have we seen, outside the natural law tradition, a metaphysical or ontological examination of justice, and that is exactly what Schopenhauer gives us.

This Article first delves briefly into Schopenhauer's life story. Then Schopenhauer's place in the line of Western philosophers is examined, particularly his positioning with respect to Kant and Hegel. Then follows an inquiry into the metaphysical bases of Schopenhauer's theory of justice, the theory of justice proper, and a discussion of some of its implica-

---


5. Beyond the somewhat question-begging Roman principle of giving everyone his due, most attempts at defining "justice" have been content-based, and have included notions of equality and rationality. See Marcin, supra note 2, at 365-67. Insofar as justice has occasionally been treated ontologically, it seems to have simply been recognized as having an almost unassailable claim of absoluteness attached to it, to the point where at least one commentator has observed, with perhaps only slight exaggeration, that "[a]ll wars have been fought by all parties in the name of justice, and the same is true of the political conflict between social classes." ALF ROSS, ON LAW AND JUSTICE 269 (University of California Press 1974) (1958). One looks almost in vain through Western legal literature for a nondivisive, unifying understanding of the concept of justice that transcends the ideological pluralism which plagues us as a human society. See Marcin, supra note 2, for just such a quest.
tions for the human condition. Interspersed throughout are analyses of the relationships between Schopenhauer's thought and contemporary quantum physics on the one hand, and Eastern philosophical approaches and understandings on the other. Because Schopenhauer's theory of justice is an ontology, there is a need throughout much of this Article to examine Schopenhauer's metaphysics proper.

Curiously, although the Schopenhauerian view is becoming increasingly relevant to today's jurisprudence, it is not an outgrowth of yesterday's jurisprudence. To some, that may be a disqualification. Others, however, tired of the endless journalized conversations among criticalists, economists, and civic republicans, might find solace in Schopenhauer's almost-two-century-old "fresh" approach. Schopenhauer may even have something to say to those criticalists, economists, and civic republicans who still nurture the hope of finding a "unified field theory" in the multi-dimensional universe of jurisprudence, or at least a lingua franca in the juris-Babel of contemporary legal philosophies.

I. SCHOPENHAUER'S LIFE

A. An Incident

The year was 1840. The place, Copenhagen. The event, a meeting of the Danish Royal Society of the Sciences. The members of the Society found themselves in a quandary. They had sponsored a prize essay contest three years earlier, inviting submissions on the topic of "The Source and Foundation of Morals." It probably seemed to the Society to be an excellent moment in history for such a contest. Immanuel Kant had by that time been enshrined in the minds of European philosophers as the man who had, at long last and perhaps even definitively, established the rational and metaphysical foundations of morality. By then, his work had been further systematized by Fichte, extended by Schelling, and explained by Hegel. It must have seemed, in 1837, as if a new "golden age" of speculative philosophy were dawning, and the Society's contest would, perhaps, serve to identify some budding and worthy successor to the mantle of Kant, Fichte, Schelling, and Hegel.

Alas, in the three years since the announcement of the contest, only one lone contestant had submitted an entry. It was a lengthy essay written in German by a somewhat obscure scholar who at the time did not even hold an academic post. Those facts were not, however, the reasons for the Society's predicament. The trouble lay in the essay itself. The somewhat obscure scholar had referred to Kant's famed Categorical Im-
perate as "absurd moral pedantry,"6 classified Fichte and Schelling as "philosophasters, dreamers, and visionaries,"7 and called the revered Hegel (who had only recently suffered a tragic death in a cholera epidemic) a "clumsy and senseless charlatan."8 The essay went on to identify "compassion" as the source and foundation of morals.9 Having rejected Kant's account of the basis for morality and ethics, in an anything-but-compassionate manner, the essayist went on to embrace, quite heartily, Kant's "transcendental aesthetic"10 and to argue from it to the conclusion that there is, at some unfathomable and unconscious level, a basic ontological oneness among human beings—a conclusion which he supported with references to the Vedanta of Hindu scripture. One can only imagine the perplexity of the members of the Society. After some delay, they decided not to award the prize at all.

The following year, Arthur Schopenhauer, the then obscure scholar whose essay had been rejected by the Society, published the document independently, under the title On the Basis of Morality,11 and took the occasion to excoriate the Society itself as "a league of journalists sworn to glorify the bad."12 The indignity of losing a contest in which one's submission was the only entry might have explained Schopenhauer's outburst as a momentary surrender to pique were it not for the fact that twenty years later, after his Parerga and Paralipomena had secured his fame (and only a month before his death), he published a second edition of the essay and once again took the occasion to vilify the Society with implications that it was a suppressor of truth, a stiffer of brains and talent, and a supporter of the fame of windbags and charlatans.13 Schopenhauer, despite his immense capacity for taking and giving offense, indeed wallowing in both, never seemed to understand why people would not take him seriously as the champion of compassion. Nor would

7. Id. at 79.
8. Id. at 80.
9. Id. at 144.
11. Schopenhauer joined On the Basis of Morality with another essay titled On the Freedom of the Human Will and published both under the title THE FUNDAMENTAL PROBLEMS OF ETHICS. The essay on the human will was awarded a prize in a similar contest sponsored by the Scientific Society of Trondheim, Norway.
12. CHOPENHAUER, MORALITY, supra note 6, at 14.
13. Id. at 33.
he have understood how he could become, of all things, Adolf Hitler's favorite philosopher.14

Schopenhauer was not blind to his own deficiencies in the area of compassion; he simply did not seem to understand why people should expect him to practice what he preached. He had a ready answer for those who would identify his personal views as sexist and antisemitic15 and his outbursts as peevish, petty, and malicious. Schopenhauer seemed to recognize his vulnerability on many a moral score when he wrote, in his magnum opus:

It is . . . just as little necessary for the saint to be a philosopher as for the philosopher to be a saint; just as it is not necessary for a perfectly beautiful person to be a great sculptor, or for a great sculptor to be himself a beautiful person. In general, it is a strange demand on a moralist that he should commend no other virtue than that which he himself possesses.16

There is something fascinating about a self-proclaimed champion of compassion who vilifies his colleagues and holds grudges for decades. Philosophers usually purport to practice what they preach. Schopenhauer makes no such pretension, and that makes him a rarity. His claim on us, then, is not in his emotings but rather in his theory. Some of us will no doubt suggest that his life gives the lie to his theory. But to others of us, perhaps, the real fascination in the saga of Schopenhauer lies in surmising why his own theory seemed to have no personal claim on him. There are reasons.

B. A Curriculum Vitae

Character looms large in Schopenhauer's thought. He believed that character is the "real core of the whole man" and that it is "inborn."17


15. See ARTHUR SCHOPENHAUER, ESSAYS AND APHORISMS 80-88 (R.J. Hollingdale trans., 1970) [hereinafter SCHOPENHAUER, ESSAYS], for a sampling of his views on women. Joachim Fest, the journalist and biographer of Hitler, writes of Nietzsche acknowledging Schopenhauer's "hatred of the Jews." FEST, supra note 14, at 56. Also, Hitler himself once quoted Schopenhauer as referring to the Jew as "'the great master in lying.'" ADOLF HITLER, MEIN KAMPF 305 (Ralph Manheim trans., 1971) (1927).


17. ARTHUR SCHOPENHAUER, ON THE FREEDOM OF THE WILL 56 (Konstantin Kolenda trans., Basil Blackwell Ltd. 1960) (1841) [hereinafter SCHOPENHAUER, FREEDOM].
Arthur Schopenhauer’s inborn character first saw the light of day on February 22, 1788, in what is now Gdansk.18 The Schopenhauer family was wealthy and well-connected, with a seeming cosmopolitan propensity for travel and for language. One of the reasons he was named Arthur was that his mother favored the name because it was spelled the same in German, French, and English. By the time he was a teenager Arthur had already developed a fluency in all three languages.19 Until his college years, Arthur’s education was anything but conventional. He seems to have been brought up on French literature and other fashionable readings of the day. From boyhood, under the influence of his father, he read The Times (London) daily.

Despite the intellectual stimulation in his early upbringing, the young Schopenhauer did not slide easily into the life of a scholar and a philosopher. His father expected him to join the family business and consistently discouraged any deeper academic ambitions. In fact, at the age of seventeen, Arthur actually gave up schooling altogether to work in his father’s office. Shortly thereafter, however, a pivotal event occurred in the young man’s life. The family was living in Hamburg at the time, and his father had been going through episodes of depression and mood swings. One morning, the elder Schopenhauer’s body was found floating in the canal near his place of business, and of course suicide was suspected. In later life, as a philosopher, Schopenhauer would treat the topic of suicide sensitively and somewhat ambivalently.20

The death of his father affected the young Schopenhauer deeply, an event one can keep in mind when assessing the more pessimistic aspects of his later philosophy; but perhaps more important in any analysis of the depth of Schopenhauer’s pessimism was the effect that his father’s death had upon his mother. It seems to have liberated her.21 Shortly after the death of her spouse, Johanna Schopenhauer left young Arthur in Hamburg and moved to Weimar, where she proceeded to become a novelist of international renown. It is in the curious relationship between Schopenhauer and his mother that one can perhaps more easily find the roots of the pessimism and the peevishness, pettiness, and paranoia that

---

18. BRYAN MAGEE, THE PHILOSOPHY OF SCHOPENHAUER 3 (1989). At the time of Schopenhauer’s birth, the city of Gdansk was known as Danzig. Id.
19. Id. at 5.
21. MAGEE, supra note 18, at 8 (declaring that the death of her husband “opened up a new and entirely unanticipated life” for Johanna Schopenhauer).
infected him as an adult and that tainted much, though not all, of his work. Johanna Schopenhauer has been described as easygoing and party-loving in social situations, yet brittle and unfeeling in private life. Arthur undoubtedly suffered from maternal deprivation and from the inconsistency between his mother's public and private personalities. One oft-recounted incident in Schopenhauer's life well illustrates his relationship with his mother. At the age of nineteen, Schopenhauer resumed his academic career, six years later receiving his doctorate in philosophy from the University of Jena. Proudly, one might imagine, he presented his mother with a copy of his recently published doctoral dissertation, entitled *On the Fourfold Root of the Principle of Sufficient Reason* (even today regarded as a minor philosophical classic). She responded that a book called the fourfold "root" of something or other must be intended for apothecaries. The proud young doctor of philosophy, angry and hurt, countered by saying his book would still be available when all the novels she was publishing were long forgotten. She agreed, adding that the entire first printing of his book would indeed still be available. For virtually his entire adult life, Schopenhauer's relationship with his mother was competitive and hostile.

If there was a time in Schopenhauer's life that could be considered formative it probably was those years of 1813 and 1814 when the competitiveness and hostility in his relationship with his mother were having their developmental impact on his character, and when something else was also occurring, simultaneously. There are indeed two strains in Schopenhauer's thought: the base, opinionated emotings and the profound, almost prophetic understandings of the human condition. The emotings can, perhaps, be traced to his problems in relating to his mother, but those problems can only partially, if at all, explain the genesis of the deeper aspects of his theory. The other set of events occurring in 1813 and 1814 was that Schopenhauer was falling into protege relationships with two older scholars. One was the immortal Goethe. The other was a far less celebrated figure, an oriental scholar named Friedrich Majer. Curiously, it was Majer, rather than Goethe, whose influence on Schopenhauer's thought proved to be more lasting. Majer introduced Schopenhauer to the great philosophies of the East, Hinduism and Buddhism. By the time he met Majer, Schopenhauer had already published *On the Fourfold Root of the Principle of Sufficient Reason*, which was deeply Kantian in vocabulary and tone. What ignited Schopenhauer's mind at the time he met Majer was the recognition that, while working entirely within the Western, Kantian tradition, he had arrived at philo-

---

22. See *id.* at 10.
sophical positions that were central to Eastern thought. This commonality has always been one of the reasons why Schopenhauer's philosophy is so fascinating. He formed its initial postulates based solely on his acquaintance with the Western philosophical tradition (steeped heavily in Platonism and Kantianism) and found them largely confirmed in the Eastern Hindu and Buddhist traditions.

Five years after the publication of his doctoral thesis, Schopenhauer published his magnum opus, Die Welt als Wille und Vorstellung, or The World as Will and Representation. He was thirty years old at the time, and expected that the work would establish him as a well-recognized scholar and philosopher. Instead, it met with public and professional apathy. In a sense, the fact that Schopenhauer's magnum opus did not generate wide acceptance and approbation determined the course of the rest of his writings. Everything of consequence that Schopenhauer wrote from that day on can fairly be described as an effort to further explain the thesis that he put forth in The World as Will and Representation.

Two years after the publication of his magnum opus, however, Schopenhauer did achieve a university lectureship at the University of Berlin. His great nemesis Hegel was, at the time, also lecturing at Berlin and was, moreover, at the height of his personal fame. The fledgling lecturer Schopenhauer characteristically scheduled his own lectures to be given at the same time as Hegel's. When no one came, Schopenhauer lectured to an empty room, and when the choice of changing his schedule or abandoning his course was pressed upon him, Schopenhauer aban-

23. Id. at 15.

24. Perhaps it is still more common to refer to Schopenhauer's book in English as The World as Will and Idea. It is understandable that the first translators of Schopenhauer's book into English, R.B. Haldane and J. Kemp, chose, in their 1883 work to translate "Vorstellung" as "idea." Arthur Schopenhauer, The World as Will and Idea (R.B. Haldane & J. Kemp trans., 11th prtg. 1964) (1883). "Vorstellung" had been widely used in German philosophy as a translation of Locke's English term "idea." Schopenhauer, however, did not use the term in that sense, and further confusion is generated because Schopenhauer had a special and limited place for his understanding of the Platonic "Idea" in a portion of his metaphysics. Wherever Schopenhauer wrote of the Platonic Idea he used the German word "Idee," never "Vorstellung." E.F.J. Payne translated the book anew into English in 1958 and wisely decided not to stay with the word "idea" for "Vorstellung"; he gave the word "Vorstellung" the more accurate translation of "representation." 1 Schopenhauer, Will and Representation, supra note 16. Of course the word "representation" has several meanings and nuances. As Payne used it, and as Schopenhauer used "Vorstellung," it carries the very literal meaning of "re-presentation," i.e., "presentation again." Schopenhauer's main thesis is that the world "presents" itself to our organ of perception, but our organ of perception imposes the concepts of space and time and the principle of causality on it and then re-presents it, i.e., presents it anew, to us. See id. at 109.
Schopenhauer's Theory of Justice

Schopenhauer's Theory of Justice

doned his career as a university lecturer, never to return. He spent virtually the entire rest of his life (almost forty years) studying and writing.25

II. Kant's Influence

At its core, Schopenhauer's theory of knowledge is deeply metaphysical and deeply Kantian. It has its starting point, indeed its essential grounding, in the basic premise of Immanuel Kant's own theory of knowledge—a premise which Kant himself referred to as his own "Copernican Revolution."26 Kant's great "Copernican" discovery was that the world of our experience must, if it is to be perceived by us, conform to the patterns of our perceiving instrument. According to Kant, we do not see the world as it is, but rather as our mind structures it for us. Just as Copernicus hypothesized that apparent astronomical motion, such as the sun's moving across the sky, is really found in the observer's local frame of reference rather than in the intrinsic motion of the heavenly body, so too Kant hypothesized that many of the constituents of nature, such as time, space, and causality, are really found in the observer's local frame of reference rather than in the intrinsic nature of things.27 We see things in time and space and we perceive things as adhering to the principle of cause and effect, not because the things and the events in themselves impose time, space, and causality on our perceiving instrument, that is, the mind, but because the very structure of the mind imposes time, space, and causality on our perceptions of the things and events. About things as they really are in themselves, we can know nothing.28

25. For further information on Schopenhauer's life, see the following works, which provide the basis for the preceding biographical section. Frederick Copleston, S.J., Arthur Schopenhauer: Philosopher of Pessimism 18-44 (Harrer & Row 1975) (1946); Magee, supra note 18, at 3-27; V.J. McGill, Schopenhauer: Pessimist and Pagan (1931); Roderig Safranski, Schopenhauer and the Wild Years of Philosophy (Ewald Osers trans., Harvard University Press 1989) (1987); H. Zimmern, Schopenhauer: His Life and Philosophy (1932).


28. As Kant himself put it, Hitherto it has been assumed that all our knowledge must conform to objects. But all attempts to extend our knowledge of objects by establishing something in regard to them a priori, by means of concepts, have, on this assumption, ended in failure. We must therefore make trial whether we may not have more success in the tasks of metaphysics, if we suppose that objects must conform to our knowl-
This was the underpinning of Kant’s theory of knowledge, and Schopenhauer accepted it wholeheartedly—but only to a point. Schopenhauer claimed that there is a way in which we can know something about things as they really are in themselves, when stripped of the time, space, causality, and other impedimenta imposed by the structure of the mind.

Kant divided his theory of knowledge, with its revolutionary Copernican twist, into what he called the “transcendental aesthetic” and the “transcendental logic,” based roughly on the distinction between knowledge through sense perception and knowledge through applied reasoning. To the former he relegated space and time, as conditions of sensation, that is, prerequisites for sensation, imposed by the perceiving subject on the perceived object in order to make it intelligible. To the latter he relegated the principle of causality and eleven other “categories” of pure thought. Schopenhauer, however, jettisoned eleven of Kant’s categories of pure thought, retaining only the category of causality in his metaphysics, and regarding it, as did Kant, as a condition of pure thought, an imposition of the structure of the perceiving mind.

Kant’s Copernican Revolution, his thesis that those properties and characteristics which we commonly think of as inhering in objects and events in themselves—space, time, and causality, for example—are in reality inherent in the structure of the mind of the perceiving subject, was brilliantly responsive to the philosophical problems of his age. Kant’s in-

---

30. Id. at 67, 74.
novation answered the skepticism of Hume by preserving the reality (albeit an unknowable reality) of the objective world while at the same time avoiding the extreme subjective idealism of Berkeley. In framing his response, however, Kant created a problem. His brilliant insight flew in the face of the Scientific Enlightenment, premised as it was on the ability to know objects-in-themselves with certainty and reliability. Consequently it was, perhaps, predictable that the philosophers who followed Kant roughly divided themselves into two camps: (1) those who sought ways out of the Kantian dilemma in efforts to save the certainty and reliability of the knowledge of objects-in-themselves, typified by Hegel (who sought to link the structure of the perceiving mind with the perceived object by identifying the movements of thought with pulsations of real being), and (2) those who accepted the Kantian dilemma wholeheartedly and made efforts to explore it more deeply, typified by Schopenhauer.

Kant's thesis is that we perceive things as adhering to the principle of cause and effect, and as existing in time and space, not because the things-in-themselves actually do adhere to the principle of cause and effect and actually do exist in time and space, but rather because the very structure of the perceiving mind imposes causality, time, and space on our perceptions of things. This concept is all-important to an understanding of Schopenhauer's metaphysics. Schopenhauer accepted it for the brilliant insight that it was; it is not inaccurate to say that he based his entire metaphysics on it. For Schopenhauer as for Kant the law of causality is known by human beings prior to all experience. Indeed, it is the condition of experience itself. It is the sieve through which experience must come in order for us to be aware of it. It is the form which experience must take in order to reach our consciousness. It is the binary code into which experience must be put in order to be processable. Our consciousness is structured in such a way that it can only process experience in accordance with the cause-and-effect code. The computer analogy may not sit well with many of us, but it is apt in describing Schopenhauer's thought. Schopenhauer's world is indeed as deterministic as the world the computer would perceive, if it had consciousness.

To others, even to other Kantians, Kant's thesis was something of a stumbling block, perhaps even an embarrassment. If accepted at face value, it seemed to make any metaphysics at all an impossibility. "Metaphysics" is usually understood as meaning an inquiry into the ultimate

---

32. Magee, supra note 18, at 67-68.
nature of things, the ultimate nature of reality. Indeed, the conclusion that Kant himself drew from his thesis, that we can know nothing about things as they are in themselves,\textsuperscript{34} seemed to deny even the possibility of a metaphysics.

Hegel chose one way of resolving the dilemma raised by Kant’s thesis, and Schopenhauer another. In a sense, Hegel’s resolution of the dilemma was probably closer to Kant’s own implicit resolution of it: If the structure of our own perceiving mind is the thing that imposes space, time, and causality on the external world, then that is all we have to go on.\textsuperscript{35} Regardless of what things are truly like in themselves, we have only the rationality that our perceiving minds superimpose on them. That rationality is the reality, the only one we can deal with. Hence Hegel’s famous statement: “The Real is the Rational and the Rational is the Real.”\textsuperscript{36}

Schopenhauer saw that as shallow and simplistic—more of a refusal to deal with Kant’s brilliant insight than an exploration and explication of it. Schopenhauer’s resolution of the Kantian dilemma differed. He accepted Kant’s thesis, but not the conclusion that Kant drew from it.

III. SCHOPENHAUER’S DEPARTURE FROM KANT

A. The Concept of Will

Even though it is true, as Kant suggested, that our perceiving mind is the thing that imposes time, space, and causality on external things, nonetheless, in Schopenhauer’s view, we \textit{can} know something about external things as they are in themselves. \textit{We can} know something about the ultimate nature of reality. This is true, reasoned Schopenhauer, because we seem to have the ability to view ourselves from, as it were, \textit{two} vantage points. Kant never took this fully into account, according to Schopenhauer. The relationship that we have with the rest of the world is one of subject (our perceiving mind) to object (everything out there in the external world). But as to our \textit{selves}, we are both subject \textit{and} object, \textit{and we know it}. We have a simultaneous dual insight into our own nature. We can view our selves as perceiving subjects and as perceived objects. This simultaneous dual insight allows us to prescind from the impositions of the perceiving mind, and to reflect on our selves as pure selves. When we do this—when we strip away time, space, causality, and individuation, and try to get a direct and immediate understanding of

\textsuperscript{34} See \textit{Kant}, supra note 10, at 22.
\textsuperscript{35} See \textit{Collins}, supra note 33, at 608.
\textsuperscript{36} \textit{Georg W.F. Hegel}, \textit{Hegel’s Philosophy of Right} 10 (T.M. Knox trans., 1967).
what is left—we do find something, something like a tendency to exist or a tendency to act. If we were to give this something—this tendency to exist and to act—a name, we would be hard pressed to call it anything but a “will.” And that is the word Schopenhauer chose.

The perceiving mind, when it engages in this dual insight and recognizes itself as both subject and object, trying to zero in on itself as a pure self, finds that it is, at base, “will.” As Hegel identified “rationality” as the ultimate reality, Schopenhauer identified “will.” Moreover, as Hegel found rationality in all existing things, so too Schopenhauer found “will.” In each case, of course, the terms chosen were anthropomorphisms. Stones do not “think” any more than they “will.”

“Will,” if it is the thing-in-itself not only of the human being, but also of all other things, cannot stand as what we usually take it to signify, that is, a decision making organ. Indeed, in Schopenhauer’s thought, it does not mean that. At one point in his magnum opus Schopenhauer identified “will” with the forma substantialis of the scholastics, and cited Suarez.

At another point, he described what this “will” would be like in, of all things, a stone—citing Spinoza in the bargain:

Spinoza (Epist. 62) says that if a stone projected through the air had consciousness, it would imagine it was flying of its own will. I add merely that the stone would be right. The impulse is for it what the motive is for me, and what in the case of the stone appears as cohesion, gravitation, rigidity in the assumed condition, is by its inner nature the same as what I recognize in

37. Schopenhauer explains:

[T]he knowledge everyone has of his own willing... is neither a perception (for all perception is spatial), nor is it empty; on the contrary, it is more real than any other knowledge. ... [O]ur willing... is the one thing known to us immediately, and not given to us merely in the representation, as all else is. Here, therefore, lies... the only narrow gateway to truth. Accordingly, we must learn to understand nature from ourselves, not ourselves from nature.

... [I]f all the other phenomena could be known by us just as immediately and intimately, we should be obliged to regard them precisely as that which the will is in us. Therefore in this sense I teach that the inner nature of every thing is will, and I call the will the thing-in-itself.

1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 196-97. Schopenhauer’s inconspicuous statement that “we must learn to understand nature from ourselves, not ourselves from nature,” 2 id. at 196, was, at least with respect to the Western philosophy of his day, Schopenhauer’s own little Copernican Revolution.

38. 1 id. at 124.
myself as will, and which the stone also would recognize as will, if knowledge were added in its case also.39

“Will” for the stone is simply the tendency to be what it is—the tendency not to decompose, turn into something else, or vanish from existence. Schopenhauer chose the word “will” to describe this principle of reality undoubtedly because, starting from Kant’s transcendental aesthetic and transcendental logic,40 he found it first in the human being. One might easily surmise that had his approach allowed him to start at the level of inanimate things (as the approach of today’s quantum physicists allows), he likely would have chosen a word like “tendency” rather than “will.”

The end result of this departure from Kant’s paralyzing conclusion that reality in itself is unknowable is Schopenhauer’s basic metaphysical thesis. Schopenhauer clearly states his thesis in the title of his masterwork: The World as Will and Representation.41 Reality in itself, the ground of all being, is “will,” and we perceive this “will” in the world not directly, but rather in a second-hand fashion. Our minds restructure this “will” and re-present it to our consciousnesses wrapped in the concepts of time and space and in the principle of causality. The world is “will” and is also “re-presentation.”

In his Copernican Revolution Kant had shown that the phenomenal world (the immediate, apparent world) is conditioned at least as much by the perceiver (the subject) as by that which is perceived (the object). What Schopenhauer did was to focus more intently on the phenomenal world as being “representation” (re-presentation), and to identify the inner nature of the object (the thing in itself)—as well as the inner nature of the subject, for that matter—as “will.” Kant would have agreed with the first half of the preceding sentence, that the phenomenal world is representation; in effect, that statement is simply a restatement of Kant’s Copernican Revolution. Kant, however, stopped there, concluding that we never can actually know the inner, essential, real nature of the world out there, that is, the thing in itself. Schopenhauer’s claim is that he has found a route whereby the human mind can actually come to know the thing in itself, that is, reality as it truly is in itself, and not simply reality as it is restructured and re-presented to our consciousness through the structures of our minds. The access ramp to this route, as it were, lay in the fact that there is one “object” that is not re-presented to us through the structure of our perceiving instrument, one object of which our conscious-

39. 1 id. at 126. What may, perhaps, be a more Spinozistic viewpoint on the same topic appears in Annie Dillard, Teaching a Stone to Talk: Expeditions and Encounters 69 (1982).
40. See supra note 29.
41. See supra note 24.
ness can have direct, unmediated experience—*itself*. Our consciousness experiences itself, its own inner nature, as "will." Schopenhauer thus claimed to have found a way around the roadblock that Kant's Copernican Revolution seemed to have introduced.

**B. The Kantian Flaw**

Schopenhauer did more than simply trek out on his own, metaphysically speaking. He claimed to have discovered a major flaw in Kant's thinking—a flaw which made the logic of Kant's position one of pure subjective idealism. Pure subjective idealism would hold that the world out there is something like an imaginary projection, that it does not really exist at all outside the subject's mind. Kant explicitly rejected pure subjective idealism, but Schopenhauer insisted that Kant's position logically led to it.

In his *Critique of Pure Reason*, Kant refuted Berkeley's pure subjective idealism by arguing that our "inner experience . . . is possible only on the assumption of outer experience." In other words, there *must* be something out there causing whatever perceptions we have of it. In essence, this would seem to be an unremarkable use of the principle of cause and effect. But recall, argued Schopenhauer, that Kant in his Copernican Revolution declared that the principle of cause and effect was of *subjective* origin. One can only draw the conclusion that the world out there *causes* experiences in the subject by granting *objective* significance to the principle of causality.

Schopenhauer reasoned that Kant himself may have recognized and become alarmed by the subjective idealist implications of his theory, and that this was a major reason why Kant published a revised edition of his *Critique of Pure Reason* only six years after the publication of the original. In truth, it does seem that in the original *Critique* Kant wanders into some strange statements for one who views himself as refuting the idealism of Berkeley. For example, "it is clearly shown, that if I remove the thinking subject the whole corporeal world must at once vanish: it is nothing save an appearance in the sensibility of our subject and a mode of its representations." It is not insignificant that Kant left that statement out of the revised edition.

42. *KANT*, supra note 10, at 244. The quoted language is taken somewhat out of context, but it does express the gist of Kant's thesis. See *id.* at 245 (expressing the central theme of Kant's argument). Kant put it this way: "The mere, but empirically determined, consciousness of my own existence proves the existence of objects in space outside me." *Id.*


In truth, however, the logic of Kant's early position (if one can excuse the above-quoted statement from it) seems more like Descartes' "problematic" idealism (the doctrine that the existence of objects outside our minds is merely doubtful and undemonstrable) than the pure subjective idealism of Berkeley (which Kant referred to as "dogmatic idealism").

IV. SCHOPENHAUER'S OWN CLAIM TO FAME

Schopenhauer was not being picky in arguing the existence of this flaw in Kant's theory. The flaw, if indeed it is one, exists at a very important point in the web of Kant's reasoning, the point at which subject touches object and object touches subject. If indeed it is a flaw, and more importantly, if Schopenhauer's own theory rectifies the flaw and fills the gap, then Schopenhauer's claim to greatness has undoubted merit.

A. Intellect and Matter

There is a difficulty in explaining how it is that Schopenhauer tries to fill the gap between subject and object, between perceiver and outside world. He does not use any one, single principle. Moreover, the filling agents he does use are, to some extent, outside the Western view. First of all, there is no doubt that Schopenhauer saw the issue clearly: "[I]t is ultimately the reality or ideality of matter which is the point in question. . . . Among the moderns only Locke has asserted positively and straightforwardly the reality of matter; . . . Berkeley alone has denied matter positively and without modifications." From his posing the issue in this manner, one might expect Schopenhauer to claim some sort of middle ground, but instead (and surprisingly to our Western minds) he claims what might be fairly called an "all-ground," or perhaps a transcendent ground:

The fundamental mistake of all systems is the failure to recognize this truth, namely that the intellect and matter are correlatives, in other words, the one exists only for the other; both stand and fall together; the one is only the other's reflex. They are in fact really one and the same thing, considered from two opposite points of view; and this one thing . . . is the phenomenon of the will or of the thing-in-itself.

This is a difficult statement for our Western minds. We like to classify and categorize. One tendency that some of us might have on reading the

45. Id. at 244.
46. Id.
47. 2 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 12.
48. 2 id. at 15-16.
above statement would be to conclude that Schopenhauer was a pure subjective idealist: Matter is intellect. Another tendency that some of us might have would be to conclude, with equal vigor, that Schopenhauer was a materialist: Intellect is matter. Still some others of us, perhaps, might conclude that Schopenhauer was unjustifiably adopting both inconsistent views.

To the Eastern mind, however, Schopenhauer's position would probably seem somewhat clearer and certainly more defensible. The Eastern mind is well familiar with the concept of “polarity” and the notion that apparent opposites can often be reconciled at some deeper level of understanding.49

It was, therefore, Schopenhauer's claim that intellect and matter are one and the same thing, and can be seen as such at some transcendent, deeper level, the level of the “will” or the thing-in-itself—the level of true reality unencumbered by time, space, causality, and the other impositions of the structure of the perceiving mind.50

Another step in Schopenhauer's filling of the gap between subject and object lies in his assertion that plurality (or, from a different vantage point, individuation) is, like time, space, and causality, an imposition of the structure of the perceiving mind and not an aspect of reality or thing-in-itself. “Will” is one and undivided and, moreover, is fully present in each and in all of its objectified manifestations. If this is true, then, at the transcendent level there is no distinction between subject and object, just as there is no distinction between intellect and matter. Perhaps it is this insight of Schopenhauer, that subject and object (or perceiving mind and world-out-there) are, at a transcendent level, one and the same thing, that shocks us so much. A contemporary quantum physicist would probably be less surprised. Physicist and popularist Fritjof Capra said it with some clarity:

49. The philosophy sections of today's bookstores abound in popularizations of this viewpoint. See generally ALAN WATTS, THE WAY OF ZEN (1957); ALAN W. WATTS, THE TWO HANDS OF GOD (1963) (arguing that the concept of polarity may not be understanda-
le to some who have yet to reach beyond a limited ability to know).

50. Schopenhauer himself directed his readers to this Eastern mode of thought, quoting from Sir William Jones, Asiatic Researches: On the Philosophy of the Asiatics, in 4 ASIATIC RESEARCHES 164 (n.d.):

"The fundamental tenet of the Vedānta school consisted not in denying the exist-
ence of matter, that is, of solidity, impenetrability, and extended figure (to deny which would be lunacy), but in correcting the popular notion of it, and in con-
tending that it has no essence independent of mental perception; that existence and perceptibility are convertible terms." These words adequately express the compatibility of empirical reality with transcendental ideality.

1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 4.
[T]he classical ideal of an objective description of nature is no longer valid. The Cartesian partition between the I and the world, between the observer and the observed, cannot be made when dealing with atomic matter. In atomic physics, we can never speak about nature without, at the same time, speaking about ourselves.51

B. Platonic Ideas

The final link which Schopenhauer uses in filling the gap between subject and object is his understanding of the Platonic doctrine of Ideas. Schopenhauer's understanding is, however, somewhat different from what is usually taken to be Plato's own meaning. Plato is usually understood as holding that there is a separate world of Ideas, that the separate world is the "real" world, and that the world of our experience is only a flickering and indistinct reflection of it.52 D.W. Hamlyn explained that "Schopenhauer is less concerned with the ontological status of the Ideas than with their logical character as representations."53 There is undoubtedly truth in Hamlyn's observation, but Schopenhauer probably would have responded that Plato also was less concerned with the ontological status of the Ideas than is commonly supposed. Plato's famed "Allegory of the Cave," Schopenhauer would have argued, is more properly understood as an allegory of the sun, and bespeaks a form of enlightenment whereby the thing-in-itself of the subject can come to contemplate the thing-in-itself of the object from a unique and scarcely describable perspective—outside time itself. Plato put it this way:

[T]he true analogy for this indwelling power in the soul and the instrument whereby each of us apprehends is that of an eye that could not be converted to the light from the darkness except by

51. Fritjof Capra, The Tao of Physics 68-69 (3d ed. 1991). This insight of Schopenhauer concerning a basic identity at some deep level between perceiving subject and perceived object was not the only tenet of his (and Kant's) philosophy that contemporary physics has come to accept and, indeed, verify in theory. Bryan Magee has seen Kant and Schopenhauer anticipating Einstein's famed principle of the equivalence of matter and energy:

Perhaps the most astonishing of all the many Kantian-Schopenhauerian anticipations of modern science lies... in the former's very specific announcement of one of the central doctrines of Einstein's theory of relativity more that a century before Einstein—the doctrine that (as Schopenhauer put it, following Kant): "force and substance are inseparable because at bottom they are one."

Magee, supra note 18, at 112 (quoting 2 Schopenhauer, Will and Representation, supra note 16, at 309).


Schopenhauer's Theory of Justice

turning the whole body. Even so this organ of knowledge must be turned around from the world of becoming together with the entire soul, like the scene-shifting periactus in the theater, until the soul is able to endure the contemplation of the essence and the brightest region of being.\textsuperscript{54}

We saw earlier that Schopenhauer found “will” to be the thing-in-itself of all reality by first finding it in the human subject’s attempt to understand the true nature of the reality of his or her own self. In that context he found “will” to be directly and immediately presented (and not re-presented) to the mind of the perceiving subject, and he reasoned that “will” or its non-self-conscious, nonintelligent, or inanimate analogue is the thing-in-itself of all other reality. We cannot have direct, immediate knowledge of the thing-in-itself, the true reality, of objects outside ourselves, because our knowledge, since it is that of a perceiving subject, is conditioned by the structure of the instrument of perception, that is, our own mind. It is, according to Schopenhauer, the instrument of perception, or rather its structure or configuration, which imposes time, space, causality, and individuality on the objects of perception. We can only have direct, immediate knowledge of “will” in ourselves, because in that context (the context of our selves) we are both subject and object, or more properly perhaps, an entity in which subjectness and objectness are somehow fused.

The main problem with Schopenhauer’s ontology is that even if one accepts his thesis that the perceiving subject can know “will” as the thing-in-itself of his or her own being, Schopenhauer gives us precious little justification for his conclusion that the perceiving subject can somehow understand that “will” is also the thing-in-itself of all other objects, or even that the perceiving subject can know anything at all about the thing-in-itself, the true reality, of other objects.

It is at this point that Schopenhauer’s understanding of Plato’s theory of Ideas comes to the rescue. Schopenhauer wrote, “Idea and thing-in-itself are not for us absolutely one and the same.”\textsuperscript{55} That is a cryptic and potentially misleading statement. The focus should be on the words “not . . . absolutely.” There obviously is some strong connection between the Platonic Idea and the thing-in-itself, that is, the true reality; it is a connection that comes close to the two being “one and the same,” but not absolutely so. For Schopenhauer, the Platonic Idea is the thing-in-itself, the true reality, but with one single limitation: it exists in the relationship that


\textsuperscript{55} 1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 174.
object bears to perceiving subject. That is its only limitation. The Pla-
tonic Idea has none of the other limitations that ordinarily perceived
items have; it is timeless and spaceless.

It is the Platonic Idea that the artist gleans from the scenery, and which
the art appreciator gleans from the painting. It is the timeless and space-
less Platonic Idea that one finds in the object of one's love. It is a glimpse
at unindividuated oneness. Schopenhauer's theory is both strong and
weak at this point, where he suggests a deep connection, falling just short
of identity, between perceiving subject and perceived object at the level
of the Platonic Idea. It is strong in that it does seem to add to and to
elucidate how it is that aesthetic appreciation exists and works. It is weak
because it is not grounded in logical proof.\footnote{56}

Obviously, in Schopenhauer's thought, this contemplation of the Pla-
tonic Ideas is very much an occasional and exceptional activity. It is not
our normal way of perceiving—but it happens,\footnote{57} and when it happens,
the subject ceases "to be merely individual" and becomes "a pure will-
less subject of knowledge" who has immediate access to the "objectivity
of the will." The subject-object distinction does not really disappear, but
something does disappear in the experience—individuality. The perceiv-
ing subject is no longer divided from the perceived object by any mediating
or representing agency. As Byron states: "'Are not the mountains,
waves and skies, a part of me and of my soul, as I of them?'"\footnote{58}

V. SCHOPENHAUER AND CONTEMPORARY SCIENTIFIC THEORY

The first decade of the twentieth century encased a strange, shadow
time. We seem to have named and placed clear associations on decades

\footnote{56. This weakness is, perhaps, tempered in modern scholarship in the connections be-
tween Schopenhauer's understanding of the Platonic Ideas and analytical psychologist Carl
Jung's theory of archetypes and the collective unconscious. Jung relates his archetypes to
Plato's Ideas and his concept of libido to Schopenhauer's "will." See, e.g., C.G. Jung, The
}

\footnote{57. Schopenhauer explains it:

[T]he transition that is possible, but to be regarded only as an exception, from the
common knowledge of particular things to knowledge of the Idea takes place
suddenly, since knowledge tears itself free from the service of the will precisely by
the subject's ceasing to be merely individual, and being now a pure will-less sub-
ject of knowledge.

\ldots

... If, therefore, the object has to such an extent passed out of all relation to
something outside it, and the subject has passed out of all relation to the will,
what is thus known is no longer the individual thing as such, but the Idea, the
eternal form, the immediate objectivity of the will at this grade.

1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 178-79.

58. 1 id. at 181 (quoting Byron, Childe Harold's Pilgrimage, III, 1xxv).}
that followed, for example, the Roaring Twenties and the Great Depression, but not on that first decade. On the surface, perhaps, it seemed to be a generally quiescent time, but underneath, political and social energies and forces were seething and stewing, largely unnoticed, soon to erupt in the Great War. In at least one context, however, that first decade of the twentieth century was far from quiescent; a dynamism was emerging that would justify referring to the decade as an era of stunning creativity and achievement.

Physicist Max Planck inaugurated the twentieth century by bringing forth the first crucial idea of what was eventually to become the theory of quantum mechanics: the notion that energy exists in the form of discrete quantities and that the emission and absorption of energy occurs in packets, or bunches, or "quanta." In 1905 Albert Einstein published three papers and wrote a fourth. His first paper proposed what is now recognized as the first convincing test for demonstrating the existence of atoms. The second posited that light as well as matter is "quantized," existing in the form of a rain of discrete particles which we now refer to as photons. The third paper introduced his special theory of relativity, which linked space and time as two aspects of one and the same phenomenon. Einstein's fourth paper, written in 1905 and further developed in 1907, showed the equivalence of matter and energy in the now well-known formula $e=mc^2$. Planck's modest beginnings in reinterpreting Newtonian mechanics and Einstein's stunning insights were to alter forever not only the principles of physics as then understood and accepted, but (as we are now coming to realize) our basic understanding of reality itself.

This modern Scientific Re-enlightenment finds its contemporary expression in two sets of theories: Einstein's theories of relativity and the theories of quantum mechanics developed by Neils Bohr, Werner Heisenberg, and others. Relativity theory speaks to understandings of reality at the macro level, the cosmic level of galactic space. Quantum theory, on the other hand, speaks to understandings of reality on the micro level, the level of subatomic events. It is in the implications of

60. Id. at 14.
61. Id. at 15.
62. Id. at 18.
63. Id. at 21.
64. See e.g., Capra, supra note 51, at 18, 45, 54, 62, 132.
65. See, e.g., Stephen W. Hawking, A Brief History of Time: From the Big Bang to Black Holes 11-12, 60 (1988).
the theory of quantum mechanics that Schopenhauer's metaphysics find their closest analogue.

Two seemingly different and opposed approaches within quantum mechanics have received considerable attention: Werner Heisenberg's uncertainty principle and Neils Bohr's principle of complementarity. According to the uncertainty principle, it is impossible to measure the position and the momentum of a subatomic particle (such as an electron) at the same time. Granting "reality" to the one destroys it for the other. According to the principle of complementarity, "particle" and "wave" are concepts which exclude one another, and yet certain subatomic entities can be correctly represented as a particle and as a wave, although not at the same time. Bohr's and Heisenberg's principles, taken together, have come to be known as the "Copenhagen Interpretation" of quantum mechanics and, taken together, they have an unsettling implication.

Objectivity, in quantum theory, seems to be something that we, the "observers," fix on reality, something that we grant to the world out there, at least to the world at the subatomic level. Of course, one thinks immediately of Immanuel Kant's cryptic formulation: "[I]t is clearly shown, that if I remove the thinking subject the whole corporeal world must at once vanish." And it is not without significance that the scientific theories of today seem to support the basic premise inherent in Kant's "Copernican Revolution." There is an ontological interconnectedness between the subjective and the objective, and from the subjective vantage point, time, space, causality, and even individuality itself are things which we, to some extent at least, fix on reality; they are not properties of objects-in-themselves.

In 1975, theoretical physicist Fritjof Capra published a popularization of quantum theory under the title *The Tao of Physics*. The book also carried a subtitle: An Exploration of the Parallels Between Modern Phys-

---

66. See, e.g., Capra, *supra* note 51, at 140, 158.
67. *Id.* at 160.
68. *Id.* at 140, 158.
69. *Id.* at 140-41.
70. *Id.* at 151-52.
71. See, e.g., Pagels, *supra* note 59, at 69, 76.
72. In the words of physicist Heinz Pagels, "[t]he Copenhagen interpretation of the new quantum theory ended the classical idea of objectivity—the idea that the world has a definite state of existence independent of our observing it." *Id.* at 114.
74. See Capra, *supra* note 51.
75. *Id.*
ics and Eastern Mysticism. Capra's book became a best seller, was reprinted in a second and third edition, and has had a profound effect in opening to the general public the quandary we have been discussing, the fact that contemporary quantum theory has changed radically our Western scientific understandings of space, time, matter, causality, and objectivity. Tendencies to exist—tendencies to occur—patterns—probabilities of interconnections. Reaching for a word that is not quite there. Schopenhauer chose the word "will."

Schopenhauer's dual world is a strange one indeed—every bit as strange as the dual world of the quantum theorists. At the ordinary level—the phenomenal level at which we normally perceive things—we experience things and events as discrete and concrete "realities." But at that other level, the level of true reality, the level of thing-in-itself—the noumenal level—it is quite a different situation. At that deep level, which we can experience only dimly and inferentially, all is "will," a chaos of tendency—a tendency to exist, to live, and to survive.

What we have learned in recent years, with the now well-accepted principles that flow from the special and general theories of relativity and the theory of quantum physics, is that we do indeed live in a dual world: the world of ordinary perception in which we experience things and events as

---

76. Id.
77. In Capra's words:
   At the subatomic level, matter does not exist with certainty at definite places, but rather shows "tendencies to exist", and atomic events do not occur with certainty at definite times and in definite ways, but rather show "tendencies to occur".
   ... At the subatomic level, the solid material objects of classical physics dissolve into wave-like patterns of probabilities, and these patterns, ultimately, do not represent probabilities of things, but rather probabilities of interconnections. ... Quantum theory thus reveals a basic oneness of the universe.
Id. at 68.
78. Schopenhauer had no less difficulty than Capra in articulating it:
   There yet remains something on which no explanation can venture, but which it presupposes, namely the forces of nature, the definite mode of operation of things, the quality, the character of every phenomenon, the groundless, that which depends not on the form of the phenomenon, not on the principle of sufficient reason, that to which this form in itself is foreign, yet which has entered this form, and now appears according to its law. This law, however, determines only the appearing, not that which appears, only the How, not the What of the phenomenon, only its form, not its content.
1 Schopenhauer, Will and Representation, supra note 16, at 121-22. Schopenhauer continued:
   [In everything in nature there is something to which no ground can ever be assigned, for which no explanation is possible, and no further cause is to be sought. ... This, I say, is to the mote [in a sunbeam] what man's will is to a man; and, like the human will, it is in its inner nature not subject to explanation; ...]
1 Id. at 124.
discrete and concrete realities, and another world, a world in which time and space are one, in which the concept of causality is jettisoned along with the concept of simultaneity, and in which the "building blocks" of matter are nothing but tendencies and potentialities.\(^7\)

What contemporary quantum physics seems to be telling us is that the world of our experience is indeed a world of spatially and temporally located interacting particles of matter. But that is not the whole story. It may be the world of our experience, but it is not the world of true reality. Deep down, below the submicroscopic level if you will, the world is not a world of spatially and temporally located particles of matter. "Particle-ness" itself—even particularity itself—is a subjective imposition that enters the picture only when an "observer" enters. Unobserved, true reality, at its deepest level, consists of "possibilities, tendencies, urges.” Even at that submicroscopic level, it seems difficult to avoid anthropomorphisms, for example "urges.” If one were to indulge in further anthropomorphic description, and perhaps raise the description to the level of human psychology itself, it does not seem too far off the mark to equate possibilities, tendencies, and urges with opportunities, affections, and motivations. The quantum physicists may indeed be telling us that the world, at that level of deep reality, is “will” (or its dehumanized, inanimate correspondent), and that what we take to be the attributes of “matter” are really subjective impositions, that is, events that occur in the acts of observing and perceiving. It seems difficult to conclude otherwise, or so one might imagine Schopenhauer arguing.

79. Physicist Nick Herbert has summarized the situation:

According to Heisenberg, there is no deep reality—nothing down there that's real in the same sense as the phenomenal facts are real. . . . “[T]he atoms and the elementary particles . . . form a world of potentialities or possibilities rather than one of things or facts. . . .”

“The probability wave . . . means a tendency for something. . . . It introduces something standing in the middle between the idea of an event and the actual event, a strange kind of physical reality just in the middle between possibility and reality.”

. . . .

The quantum world . . . is not a world of actual events like our own but a world full of numerous unrealized tendencies for action. These tendencies are continually on the move, growing, merging, and dying . . . .

. . . . Everything that happens in our world arises out of possibilities prepared for in that other—the world of quantum potentia. . . . There is no deep reality, no deep reality-as-we-know-it. Instead the unobserved universe consists of possibilities, tendencies, urges.

A. Justice and the "Principium Individuationis"

Schopenhauer referred to time and space as the "principium individuationis." By "individuation," Schopenhauer really meant "plurality," in the sense of the one "individuated" into the many. Individuation and plurality are synonymous in Schopenhauer's thought, and Schopenhauer's thought on individuality or plurality has a great deal to do with his understanding of the concept of justice. Justice, in Western legal systems, tends to be tinged with the individuated. It has a rights-and-entitlements focus. In Eastern thought, justice tends to be identified with concepts like oneness, wholeness, and harmony. Schopenhauer's understanding of justice is probably unique among Western philosophers. He identifies it, in Eastern fashion, with oneness and wholeness—a oneness and wholeness that he finds to be the true basis of reality itself. If Schopenhauer is correct, the Western focus on rights and entitlements as the basis of justice is not only erroneous, it is counterproductive and grossly misleading.

Our legal systems are so obviously built on the "rights-and-entitlements" sense of the concept of justice that it would be difficult for us to grasp Schopenhauer's understanding of it, were he not so blunt in expressing it. A rights-and-entitlements focus is premised on individuation and plurality—on the premise that each individual is an autonomous entity to which rights and entitlements can attach. Quite clearly Schopenhauer consigns individuality and plurality to the world of phenomena. Individuality and plurality do not exist at the deep level of true reality. Remaining completely faithful to Kant's Copernican Revolution and regarding space and time as forms of our knowledge, that is, as impositions of the structures of our minds rather than as really existing objective entities, Schopenhauer went well beyond Kant and reasoned that the individuation (or plurality) that we see about us is possible only because of space and time. In reality, he reasoned, the "will" as the true thing-in-itself is one—not one in the sense of a single unit as opposed to a number of other units, but one in the sense that it lies outside space and time and

80. 1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 112.
81. 2 id. at 275. Psychologist Carl Jung, who was well read in Schopenhauer, used the term "individuation" in a different sense. Jung's "individuation" is a process of self realization, and it more closely parallels Schopenhauer's doctrine of the denial of the will-to-live. See infra note 150 and accompanying text.
82. See, e.g., Marcin, supra note 2, at 364 (suggesting that the rights-and-entitlements focus is grounded in the human characteristic of acquisitiveness).
83. One recalls Mohandas K. Gandhi's observation that "[t]hat action alone is just which does not harm either party to a dispute." 19 MOHANDAS K. GANDHI, THE COLLECTED WORKS OF MAHATMA GANDHI 233 (1958).
84. See 1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 354.
therefore transcends the plurality that space and time alone make possible.\textsuperscript{85} Plurality (or individuation) according to Schopenhauer, is just as subjective, just as "unreal," at the base level of reality, as space and time.\textsuperscript{86} It is at this point that Schopenhauer touches upon a metaphysics of justice. Traditional concepts of justice are based on the rights and entitlements of individuals or on how political systems can be organized in such a way that the rights and entitlements of individuals are secure. Schopenhauer's theory, at the deep level of true reality, prescinds from individuality itself. At that level, there are no autonomous individualities to which rights and entitlements can attach. Consequently, justice as traditionally defined must be consigned and limited to the world of phenomena. There is no rights-and-entitlements justice at the deep level of true reality. There is only what Schopenhauer refers to as "eternal justice."	extsuperscript{87}

\textbf{B. Ontological "Oneness"}

The quantum physicist is on much the same quest as the metaphysician; both seek to understand the ultimate nature of reality. We saw earlier that Schopenhauer and the contemporary quantum physicists have reached remarkably similar conclusions as to the subjectivity of space and time and even as to the ultimate moving force behind and the grounding of reality itself: The physicists speak of tendencies, urges, and probabilities; Schopenhauer speaks of "will" in a broad, analogical sense. One might wonder whether the quantum physicists are reaching a similar conclusion on the problem of the unity or plurality of the universe.

One dilemma exposed by the quantum physicists dealing with the nature of matter at the subatomic level is that if the world is made out of separate entities, then what is now known about subatomic particle interaction requires that some of these subatomic entities have the power to

\begin{itemize}
\item \textsuperscript{85} In Schopenhauer's words: [T]he will as thing-in-itself lies outside the province of the principle of sufficient reason in all its forms, and is consequently completely groundless, although each of its phenomena is entirely subject to that principle. Further, it is free from all \textit{plurality}, although its phenomena in time and space are innumerable. It is itself one, yet not as an object is one, for the unity of an object is known only in contrast to possible plurality. Again, the will is one not as a concept is one, for a concept originates only through abstraction from plurality; but it is one as that which lies outside time and space, outside the \textit{principium individuationis}, that is to say, outside the possibility of plurality. Only when all this has become quite clear to us... can we fully understand the meaning of the Kantian doctrine that time, space, and causality do not belong to the thing-in-itself, but are only the forms of our knowing.
\item \textsuperscript{86} \textit{Id.} at 112-13.
\item \textsuperscript{87} \textit{Id.} at 350-51.
\end{itemize}
move faster than the speed of light.\textsuperscript{88} And according to Einstein's Special Theory of Relativity the speed of light is, ontologically, the universal speed limit.\textsuperscript{89} Einstein demonstrated that as an object approaches the speed of light its mass increases to the point where, at the speed of light, it has infinite mass.\textsuperscript{90} An infinite mass would, of course, require an infinite amount of energy to move it.\textsuperscript{91} This anomaly and other findings in the area of quantum mechanics have led many physicists to the conclusion that there is, indeed, a basic oneness to the universe.\textsuperscript{92}

If, as some of the quantum physicists suggest, there is an interconnectedness or basic oneness to the universe, why do we seem to observe plurality and individuation? Theoretical physicist David Bohm has an explanation: "[F]ragmentation is continually being brought about by the almost universal habit of taking the content of our thought for 'a description of the world as it is.' . . . [W]holeness is what is real."\textsuperscript{93}

As is not uncommon among quantum physicists who write for the lay public, Bohm cites Kant to explain what he means by fragmentation being illusory: "As seems to have been first pointed out by Kant, all experience is organized according to the categories of our thought, i.e., on our ways of thinking about space, time, matter, substance, causality, contingency, necessity, universality, particularity, etc."\textsuperscript{94}

And so we seem to have come full circle. The quantum physicists are becoming metaphysicians. But there is more. Max Planck, a progenitor of quantum mechanics, once wrote: "Science . . . means unresting endeavor and continually progressing development towards an aim which the poetic intuition may apprehend, but which the intellect can never fully grasp."\textsuperscript{95} We all recognize the euphonious chord struck by John

\textsuperscript{88} See, e.g., HERBERT, supra note 79, at 28.
\textsuperscript{89} See HAWKING, supra note 65, at 20; see also ALBERT EINSTEIN, RELATIVITY: THE SPECIAL AND THE GENERAL THEORY 36 (Robert W. Lawson trans., 1961).
\textsuperscript{90} See, e.g., PAUL DAVIES, GOD AND THE NEW PHYSICS 26-27 (1983).
\textsuperscript{91} See EINSTEIN, supra note 89, at 35-37.
\textsuperscript{92} Popularist Fritjof Capra put it thus:

A careful analysis of the process of observation in atomic physics has shown that the subatomic particles have no meaning as isolated entities, but can only be understood as interconnections between the preparation of an experiment and the subsequent measurement. Quantum theory thus reveals a basic oneness of the universe. It shows that we cannot decompose the world into independently existing smallest units. As we penetrate into matter, nature does not show us any isolated "basic building blocks", but rather appears as a complicated web of relations between various parts of the whole.

CAPRA, supra note 51, at 68; see also id. at 116-29.
\textsuperscript{93} DAVID BOHM, WHoleness AND THE IMPlicate ORDER 3, 7 (Ark Paperbacks 1983) (1980).
\textsuperscript{94} Id. at 5-6.
\textsuperscript{95} MAX PLANCK, THE PHILOSOPHY OF PHYSICS 83 (1936).
Donne’s “No Man is an Island”; and likely that was one of the poetic sensibilities Planck had in mind as he saw quantum mechanics move toward the notion that everything in the universe is really an interconnected wholeness. Most of us would probably recognize another euphonious chord in the poetic William Blake:

To see a World in a Grain of Sand
And a Heaven in a Wild Flower,
Hold Infinity in the palm of your hand
And Eternity in an hour.  

Could quantum mechanics possibly be developing towards a recognition of that poetic sensibility, that is, that the entire universe is contained in any and every particle? It is, perhaps, not surprising that some, but not all, quantum theorists have moved in that direction, and it seems that it might not be incorrect to suggest that physicist David Bohm’s “multidimensional implicate order” interpretation of quantum theory allows some measure of truth to Blake’s poetic sensibility.

Schopenhauer’s thought embraces that sensibility. Indeed, it seemed to flow naturally from his understanding of “will” as “thing in itself.” “Will,” in his thought, is “the sole kernel of every phenomenon.” It “reveals itself just as completely and just as much in one oak as in millions.” It lies outside time, space, causality, and individuation. It is one. It is also without consciousness, and groundless in itself; is itself the ground, the in-itself, of all individuated phenomena or things. Because “will” is unindividuated it is present, unindividuated, whole and entire, in each phenomenon or thing. The “will” is one, but it can only manifest itself in the plurality of individuals. It can only manifest itself to the human mind in the plurality of individual things. This is because human knowledge can only exist in the forms dictated by the structure of human intelligence—time, space, causality, individuation.

98. Fritjof Capra sees that sensibility as a logical tenet of those quantum theorists who follow the so-called “bootstrap” interpretation: “[T]he universe is an interconnected whole in which no part is any more fundamental than the other, so that the properties of any one part are determined by those of all the others. In that sense, one might say that every part “contains” all the others . . . .” Capra, supra note 51, at 292. Heinz Pagels has said that the “bootstrap” theory, which essentially suggests that matter somehow pulls itself into existence (by its own bootstraps, as it were), is not widely held today. Pagels, supra note 59, at 178.
99. Bohm, supra note 93, at 186.
100. 1 Schopenhauer, Will and Representation, supra note 16, at 118.
101. 1 id. at 128.
With the human mind, the "will" becomes, to some extent, conscious. But "conscious" only in a limited and imperfect way. Through the human mind, the "will" "perceives around it the innumerable repeated image of its own inner being."\(^{102}\) The "will" is present, however, whole and entire, in every objectification of itself; plurality is an illusion. And so every knowing individual finds himself as the whole "will," simply because at the deep level of reality he in truth is the whole "will."

The "will" is being-in-itself. In most of the phenomenal world, the "will" expresses itself as a will-to-exist. For example, the ground of being of rocks and stars is, simply put, the tendency to exist, or, as the quantum physicists might put it, the patterns of probability of interaction that lead to their existence. But there seems to be a progression or gradation of being. Some parts of the world of phenomena have what seems to us to be a higher type of being, that is, living being. In living being, the "will" becomes, to a lesser or greater extent, conscious of itself as a tendency, and to that lesser or greater extent (depending on the level of sophistication of the life form) becomes what the human being would readily recognize as "will," and thus expresses itself as a will-to-live. Since the "will" knows no individuation, it "cares" only for existence and life as such, and not for any particularized manifestations of existence or life. Indeed, at the deep level of true reality, there are no particular manifestations of existence or life; individuation and plurality exist only at the phenomenal level. According to Schopenhauer, plurality is an illusion, a form of knowledge imposed by the structure of the human mind.\(^{103}\) Consequently, at the plant and lower animal level "will" seems to be at war with itself. Existence and life as such are enhanced, but at the cost of what appears to us as the destruction of the weaker individual manifestations of the will-to-live by the stronger. On its own level, however, the level of true reality, this warring or "destruction" is simply the aimless striving for being or living that is the "will."

Enter now the higher forms of animal life, culminating in human life, with consciousness and the capacity for cognition and ultimately for self-reflection, and the "will" comes to have a limited form of knowledge of itself. With these higher forms of animal life, "the mirror of the will has appeared to it in the world as representation. In this mirror the will knows itself in increasing degrees of distinctness and completeness, the highest of which is man."\(^{104}\) Humanness introduces personhood. At lower levels of life, up through nonhuman animal life, "individual charac-

---

102. 1 id. at 332.  
103. See 1 id. at 113.  
104. 1 id. at 274-75.
ter as a whole is lacking, since the species alone has a characteristic significance. In nonhuman animal and plant life, the will-to-live exhibits and exerts itself at the species level. Survival of the species alone is meaningful. That may explain why the so-called "law of the jungle," as unpleasant as its manifestations may be, does not seem unjust to us when it operates at the nonhuman level. At the human level, however, with its highly developed capacity for individuated cognition and self-reflection, the will-to-live exhibits and exerts itself, not at the species level, but at the level of the individual: "every person is to be regarded as a specially determined and characterized phenomenon of the will."

C. The Inner Conflict

The world reflects the inner nature of the "will." In the human being, "will" comes to know its reflected nature. With this knowledge "will" is, for the first time, called upon to do something—to react. In the human, "will" has to either affirm itself or deny itself. It of course affirms itself. But think—it affirms itself at the level of the individual human being. It is not affirming itself in itself, that is, undifferentiated, unindividuated. At the level of the human being, the "will" or the will-to-live (Schopenhauer calls the "will-to-live" a mere "pleonasm" or redundancy of the "will") comes into conflict with itself. Because every knowing individual is the whole will-to-live, every knowing individual, in a sense, makes himself the center of the world psychologically. And this making of one's self the center of the world, this egoism, results in "the expression of the contradiction with which the will-to-live is affected in its inner self." This inner conflict or contradiction of the "will" is a necessity.

We see this pursuit—striving, hunting, endless becoming—at the nonhuman level of living things, as the so-called law of the jungle or the "survival of the fittest." Animals and plants work to advance the will-to-live that is in them and a destruction no less so than a survival comports with the will-to-live, because at the deep level of true reality, victim and predator are one.

105. 1 id. at 132.
106. 1 id.
107. 1 id. at 275.
108. 1 id. at 332.
109. 1 id. at 333.
110. "[T]he will must live on itself, since nothing exists besides it, and it is a hungry will. Hence arise pursuit, hunting, anxiety, and suffering." 1 id. at 154. "[T]he will in itself... is an endless striving... Eternal becoming, endless flux, belong to the revelation of the essential nature of the will." 1 id. at 164.
When all this is transferred to the human level, Schopenhauer's theory of justice begins.

VI. **Eternal Justice: Schopenhauer and Gandhi**

[In all that happens or indeed can happen to the individual, justice is always done to it.]

Transferred to the human level, the so-called law of the jungle usually is regarded as socially inappropriate, even morally wrong. In that context, Schopenhauer's theory of justice deals directly and intensely with what philosophy and theology refer to as the problem of evil. In most systems of ethics and in most systems of moral theology, the problem of evil is a stumbling block, or even an embarrassment, but not in Schopenhauer's; its solution lies at the very heart of his metaphysics.

Most systems founder or wallow in circumlocutions when they confront the fact of the existence of evil in the world and try to reconcile that evil with either an all-good God or with the supposed essential goodness of human nature. The problem is impossible to avoid and must be confronted in any system of ethics.

The conventional explanation, remarkably consistent over the centuries and across many cultures, posits a judgment after death in which the oppressor receives his or her "comeuppance" and the oppressed his or her reward. In contemporary times, that explanation seems not to be wearing well, and a century and a half ago it ill suited Schopenhauer, who quoted Euripides to impugn it:

"Do you think that crimes ascend to the gods on wings, and then someone has to record them there on the tablet of Jove, and that Jove looks at them and pronounces judgement on men? The whole of heaven would not be great enough to contain the sins of men, were Jove to record them all, nor would he to review them and assign to each his punishment. No! the punishment is already here, if only you will see it." Schopenhauer's explanation is intriguing: "[T]he punishment is already there, if only you will see it." What Schopenhauer means may become clearer if we take a slight and brief digression.

---

111. 1 id. at 351.
112. See 2 id. at 643.
113. Schopenhauer recognizes it in our common, everyday experience that "sees the wicked man, after misdeeds and cruelties of every kind, live a life of pleasure, and quit the world undisturbed. It sees the oppressed person drag out to the end a life full of suffering without the appearance of an avenger or vindicator." 1 id. at 353-54.
114. 1 id. at 351 n.45 (quoting EURIPIDES, APUD STOBÆUS, Eclog., I, c.4).
115. 1 id.
Earlier in this Article, it was mentioned that Schopenhauer was Adolf Hitler's favorite philosopher.\textsuperscript{116} It is a strange irony that Schopenhauer may have had a limited and indirect influence on the thought of Hitler's contemporary and his moral antithesis, Mohandas K. Gandhi. It is no secret that Gandhi was influenced greatly by the religious and moral writings of Tolstoy.\textsuperscript{117} It is perhaps less well known that Tolstoy was steeped in the philosophy of Schopenhauer.\textsuperscript{118} That is not to say that Gandhi necessarily took some philosophical principles from Schopenhauer, even indirectly. Whatever principles Gandhi could have taken indirectly from Schopenhauer were more directly and more readily available in Gandhi's own native Hinduism. It merely is to suggest that there may be a consonance between the thoughts of the man who did not practice what he preached and the man who did, with Tolstoy's thought providing the resonance. The sympathetic vibrations are nowhere clearer than in the solutions each propounded to the problem of evil.

Schopenhauer's solution to the problem of evil is presaged quite clearly in his metaphysics. Recall that for Schopenhauer the true reality, the thing-in-itself, of everything is "will"; human knowledge of the outside world is conditioned by the structure of the human mind which imposes time, space, and the principle of causality on all its perceptions of the outside world. Time, space, and causality do not exist in the thing-in-itself, only timeless, spaceless, and causeless "will"; consequently the "will" is undivided, that is, there is a basic, very real unity among all existence. We are more than our brother's keeper. In the most basic ontological sense, we are our brother. Schopenhauer applies all this to the problem of evil:

\begin{quote}
[T]he difference between the inflicter of suffering and he who must endure it is only phenomenon, and does not concern the thing-in-itself which is the will that lives in both. Deceived by the knowledge bound to its service, the will here fails to recognize itself; seeking enhanced well-being in one of its phenom-
\end{quote}

\textsuperscript{116} See supra note 14 and accompanying text. Very likely, the attractiveness of Schopenhauer's thought to Adolf Hitler lay in the reasons why it was attractive to Richard Wagner. Schopenhauer's understanding of the Platonic Ideas led to a very strong and liberating theory of aesthetics which Wagner, his contemporary, heartily embraced, and which a century later, gave a feeling of vindication to Hitler who never accepted his failures as an artist and architect. It is a grievously lamentable tragedy of history that Hitler did not find a similar attractiveness in Schopenhauer's theory of justice, with its stress on the value of compassion. See Magee, supra note 18, at 326-59 (providing an account of Schopenhauer's influence on Wagner).


\textsuperscript{118} See Magee, supra note 18, at 379-80.
ena, it produces great suffering in another. Thus in the
fierceness and intensity of its desire it buries its teeth in its own
flesh, not knowing that it always injures only itself, revealing in
this form through the medium of individuation the conflict with
itself which it bears in its inner nature. Tormentor and tor-
mented are one. The former is mistaken in thinking he does not
share the torment, the latter in thinking he does not share the
guilt.\textsuperscript{119}

Gandhi too wrote about the problem of evil, which he discussed in terms
of "himsa," a Hindi word carrying the connotation of violent harm or
killing.

We are helpless mortals caught in the conflagration of himsa.
The saying that life lives on life has a deep meaning. . . . Man
cannot for a moment live without consciously or unconsciously
committing outward himsa.

. . . [B]ecause underlying ahimsa [nonviolence] is the unity of
all life, the error of one cannot but affect all, and hence man
cannot be wholly free from himsa.\textsuperscript{120}

Life lives on life and yet all life is one. Gandhi and Schopenhauer both
held to that proposition. Schopenhauer's lesson that "tormentor and tor-
mented are one"\textsuperscript{121} is the lesson that Gandhi put into practice. For the
success of his technique of nonviolent resistance, Gandhi banked on that
very principle, the concept that deep down, at some unfathomable level,
tormentor and tormented are one and that by accepting the torment
(more than that—by willingly seeking it out), the tormented can some-
how bring the tormentor to that realization.\textsuperscript{122}

Schopenhauer, perhaps because he had the luxury of not having to put
his theory of justice into practice, drew a conclusion that Gandhi never
seemed able to communicate to his followers\textsuperscript{123}—not only does the tor-
mentor, at that deep ontological level, share the torment, but the tor-
mented, at that same level, shares the guilt. At the level of true reality,
tormentor and tormented are one and the same. If the tormented shares
the guilt, Schopenhauer is quite correct in reaching the otherwise cryptic
conclusion that "in all that happens or indeed can happen to the individ-

\textsuperscript{119.} 1 Schopenhauer, Will and Representation, supra note 16, at 354.
\textsuperscript{120.} Gandhi, supra note 117, at 349.
\textsuperscript{121.} 1 Schopenhauer, Will and Representation, supra note 16, at 354.
\textsuperscript{122.} Gandhi, supra note 117, at 365.
\textsuperscript{123.} And which, perhaps, prevented Gandhi's theories from stemming the violence that
accompanied the partition of India and Pakistan, a partition in which both Hindus and
Muslims were able to view themselves with equal justification as oppressed victims. See,
e.g., Larry Collins & Dominique Lapierre, Freedom at Midnight 338-39 (1975).
ual, justice is always done to it." This is Schopenhauer's doctrine of eternal justice. It is the "will" feeding on itself. In Gandhi's thought it is the violent "conflagration of himsa," in which "life lives on life."

It is well known, however, that Gandhi's understanding of the Hindu concept of himsa led him to a doctrine of ahimsa, or nonviolence, and through that to a positive and remarkable state of holiness and wholeness. Gandhi clearly viewed the "conflagration of himsa" as something to be striven against. One cannot envision Gandhi choosing the term "eternal justice" to express the "conflagration of himsa," but Schopenhauer did use the term "eternal justice," suggesting that eternal justice or an understanding of it was something to be sought and even embraced, something that can lead to "virtue":

[E]ternal justice will be grasped and comprehended only by the man who rises above that knowledge which proceeds on the guiding line of the principle of sufficient reason and is bound to individual things, who recognizes the Ideas, who sees through the principium individuationis, and who is aware that the forms of the phenomenon do not apply to the thing-in-itself. Moreover, it is this man alone who, by dint of the same knowledge, can understand the true nature of virtue . . . although for the practice of virtue this knowledge in the abstract is by no means required.

Seeing, grasping, and accepting eternal justice leads to an understanding of the true nature of virtue. Schopenhauer explained how this understanding comes about.

[T]he most fundamental of all our errors is that, with reference to one another, we are not-I. On the other hand, to be just, noble, and benevolent is nothing but to translate my metaphysics into actions. To say that time and space are mere forms of our knowledge, not determinations of things-in-themselves, is the same as saying that the teaching of metempsychosis, namely that "One day you will be born again as the man whom you now injure, and will suffer the same injury," is identical with the frequently mentioned formula of the Brahmans, Tat tvam asi, "This thou art." All genuine virtue proceeds from the immediate and intuitive knowledge of the metaphysical identity of all beings.

124. 1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 351.
125. See supra text accompanying note 119.
126. See supra text accompanying note 120.
127. See supra text accompanying note 120.
128. 1 id. at 600-01.
129. 2 id. at 354.
A. The Affirmance of the Will-to-Live

The fact that there is such a vast difference between the world as it appears phenomenally and the world as it really is—between the world as appearance and the world as thing-in-itself—between the world as representation and the world as will—creates a strange and difficult situation. The world as thing-in-itself affirms itself; it goes about its existential task. And this activity, as it were, goes on behind the scenes of the world of appearances. Viewed from the world of appearances, this activity is subject to time, space, causality, plurality, all the limitations and conditions imposed by the structure of the perceiving mind. In this context the "will" manifests itself as self-affirmation. But recall, plurality applies only to the world of appearance. The entire "will" exists in each apparently individual entity. This situation naturally leads to the egoism that Schopenhauer posits as the all-pervasive original motivation in human beings. This self-affirmation in the plant and animal world appears in the all-too-familiar law of the jungle, with predator affirming itself at the expense of prey. At the human level, it assumes moral proportions in Hobbes’ bellum omnium contra omnes. Schopenhauer sees in this individuated self-affirmation not only the source of egoism, but also the source of "wrong."

"Wrong" is, thus, in Schopenhauer’s thought, the norm and "right" the exception, or as he puts it "the concept of wrong is the original and positive; the opposite concept of right is the derivative and negative . . . . The concept of right contains merely the negation of wrong."

1 Schopenhauer puts it thus:

[T]he will will everywhere manifest itself in the plurality of individuals. This plurality, however, does not concern the will as thing-in-itself, but only its phenomena. The will is present, whole and undivided, in each of these, and perceives around it the innumerable repeated image of its own inner being; but this inner nature itself, and hence what is actually real, it finds immediately only in its inner self.

1 id. at 331-32.
131. 1 id. at 333 (endorsing Hobbes’ thesis).
132. 1 id. at 334.
133. 1 id. at 339.
B. The Denial of the Will-to-Live

Because of the way in which it manifests itself in the world of appearances, that is, the world as represented to us through the structures of our perceiving mind (structures such as time, space, causality, and plurality), the "will," which at the human level Schopenhauer refers to as the "will-to-live," is involved in a delusion. Despite the countless individuals who inhabit the world, the will-to-live is unindividuated and is present, whole and entire, in each individual. Moreover, it seeks to affirm itself in this delusional milieu, often at the expense of itself.

This delusional milieu in which the "will" finds itself is not unknown in the cultural traditions that have developed over the years. Schopenhauer sees it in both Christianity and Hinduism. In Christianity, this delusion takes the form of the doctrine of original sin. Quoting the poet Calderón who wrote that "man's greatest offence [i]s that he has been born," Schopenhauer concludes that "[i]n that verse Calderón has merely expressed the Christian dogma of original sin." In Hinduism, Schopenhauer found this delusional milieu in the doctrine of the Veil of Maya:

[T]he ancient wisdom of the Indians declares that "it is Mâyâ, the veil of deception, which covers the eyes of mortals, and causes them to see a world of which one cannot say either that it is or that it is not . . . ."

Schopenhauer continued, declaring that "it is . . . individuation that keeps the will-to-live in error as to its own true nature; it is the Maya of Brahmanism."

Both religious traditions, of course, provide a solution for the human being's predicament, and both employ the same word when they discuss their solutions: salvation. But the word "salvation" on the lips of the average Christian means something quite different from what it means on the lips of a Brahman. Christian salvation traditionally accommodates and preserves the individuality of the saved person. Hindu salvation does not; in fact, in Hindu philosophy (carried over into and developed more
fully in Buddhism) existence itself is transcended in the state known as Nirvana (a word which is somewhat paradoxically but correctly translated as both “enlightenment” and “extinction”). In its final analysis, Schopenhauer’s salvation is much closer to Hindu/Buddhist concepts than to the traditional Christian understanding, although he couches his references to salvation more often than not in Christian terminology.

Salvation, for Schopenhauer, lies in the denial of the will-to-live, but this should not be understood superficially. On a simplistic level, it would seem that the clearest and most direct route to salvation, in Schopenhauer’s mind, would be suicide. Suicide seems at first glance to involve a denial of the will-to-live. But Schopenhauer very clearly held to the contrary. Suicide, according to Schopenhauer, involves an affirmation and not a denial of the will-to-live:

The suicide wills life, and is dissatisfied merely with the conditions on which it has come to him. Therefore he gives up by no means the will-to-live, but merely life, since he destroys the individual phenomenon. ... Suicide ... is a quite futile and foolish act, for the thing-in-itself remains unaffected by it ... It is also the masterpiece of Maya as the most blatant expression of the contradiction of the will-to-live with itself.

True salvation or true denial of the will-to-live involves the “will” itself doing something about the “veil of Maya.” It is not simply a matter of the “saved” individual choosing to ignore the delusion involved in the apparent plurality of things in the world. As we shall see, Schopenhauer posits that the individual human being has no free will and therefore cannot make such a choice. The only thing that has free will in Schopenhauer’s scheme of things is the will itself, as thing-in-itself. Since, in the usual course of the world, the “will” is constantly involved in affirming itself in individual phenomena, most often at the expense of itself in other individual phenomena, the “will” is constantly sinking its teeth into its own flesh. The alternative to this unpleasant state of affairs is for the “will” to deny itself—not for the individual human being to deny the “will,” but for the “will” itself to deny itself, to become quiescent, to

139. Schopenhauer wrote: “The doctrine of original sin (affirmation of the will) and of salvation (denial of the will) is really the great truth which constitutes the kernel of Christianity ... Accordingly, we should interpret Jesus Christ always in the universal, as the symbol or personification of the denial of the will-to-live ...” 1 Schopenhauer, Will and Representation, supra note 16, at 405.
140. 1 id.
141. 1 id. at 398-99.
142. See infra part VII.B.
cease its aimless striving. This event—the "will" denying itself—can occur in the context of a human being's life, and when it does something not unlike the Buddhist Nirvana—something transcendent and inexplicable—occurs:

[W]hat remains after the complete abolition of the will is, for all who are still full of the will, assuredly nothing. But also conversely, to those in whom the will has turned and denied itself, this very real world of ours with all its suns and galaxies, is—nothing.¹⁴³

There is a point to human existence, according to Schopenhauer. True, the "will" is aimless. And true, "existence is certainly to be regarded as an error or mistake."¹⁴⁴ But there is a point, or an aim, of our existence, and as Schopenhauer characteristically words it, it seems to be a trivial, negative point or aim: "[N]othing else can be stated as the aim of our existence except the knowledge that it would be better for us not to exist. This . . . is the most important of all truths."¹⁴⁵ If indeed this is "the most important of all truths," then we should, perhaps, analyze it carefully. The "aim of our existence" is "knowledge"—knowledge of a particular type. Our task in life is to acquire the knowledge which would enable us to conclude "that it would be better for us not to exist." What kind of knowledge would enable us to draw that strange conclusion? The knowledge that the will-to-live, our very being-in-itself, is "involved in a delusion."¹⁴⁶ But, of course, it cannot stop there. That kind of knowledge might lead to some sort of doctrine of ethical suicide, and Schopenhauer condemns suicide.¹⁴⁷ It is, rather, knowledge such that the "will" itself can freely recognize the delusion in which it is involved, and can freely choose to abolish itself. It is not an abstract, reasoned-to kind of knowledge; it is intuitive and finds its expression in experience.¹⁴⁸

It must be admitted that at this point Schopenhauer leaves conventional Western philosophical concepts behind, and that fact has caused some commentators to reject his doctrine of the denial of the will-to-live

¹⁴³. 1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 411-12.
¹⁴⁴. 2 id. at 605.
¹⁴⁵. 2 id.
¹⁴⁶. 2 id. at 606.
¹⁴⁷. But see SCHOPENHAUER, PARERGA, supra note 20, at 306-11, where Schopenhauer discounts all but one of the moral arguments against suicide. "[T]he only valid moral reason against suicide. . . . lies in the fact that suicide is opposed to the attainment of the highest moral goal since it substitutes for the real salvation from this world of woe and misery one that is merely apparent." Id. at 309.
¹⁴⁸. 1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 304.
almost out of hand.\textsuperscript{149} Up until now, he has been expressing himself as a philosopher using the vocabulary and the methodology of philosophy. But how to describe a non-abstract non-reasoned-to kind of knowledge in the vocabulary and methodology of philosophy? Schopenhauer calls upon myth and symbol:\textsuperscript{150}

\[\text{[I]}n\, \text{order\, to\, understand\, the\, truth\, itself\, contained\, in\, this\, myth,}\]

we must regard human beings not merely in time as entities independent of one another, but must comprehend the (Platonic) Idea of man. . . . Now if we keep in view the Idea of man, we see that the Fall of Adam represents man's finite, animal, sinful nature, in respect of which he is just a being abandoned to limitation, sin, suffering, and death. On the other hand, the conduct, teaching, and death of Jesus Christ represent the eternal, supernatural side, the freedom, the salvation of man. Now, as such and \textit{potentia}, every person is Adam as well as Jesus, according as he comprehends himself, and his will thereupon determines him.\textsuperscript{151}

\[\ldots\, \text{[T]}hat\, \text{great\, fundamental\, truth\, contained\, in\, Christianity\, as\, well\, as\, in\, Brahmanism\, and\, Buddhism,\, the\, need\, for\, salvation\, from\, an\, existence\, given\, up\, to\, suffering\, and\, death,\, and\, its\, attainability\, through\, the\, denial\, of\, the\, will,\, hence\, by\, a\, decided\, opposition\, to\, nature,\, is\, beyond\, all\, comparison\, the\, most\, important\, truth\, there\, can\, be.}\]

It is startling when we read Schopenhauer's statement that "every person is Adam as well as Jesus."\textsuperscript{152} But if time, space, causality, plurality, and individuation are mere impositions of the structure of the perceiving mind, and are not attributes of true reality (and this is precisely the claim of Schopenhauer's entire metaphysical theory), then most certainly at that deep level of true reality every individual is every other individual. There is an identity between Adam and each of us, between Jesus and

\begin{footnotesize}
\begin{enumerate}
\item See, \textit{e.g.}, Magee, \textit{supra} note 18, at 242-43 (discussing the inconsistencies of Schopenhauer's doctrine of the denial of the will-to-live).
\item The importance of myth and symbol to psychology and metaphysics has since been widely recognized, especially in the writings of Carl Jung. See, \textit{e.g.}, C.G. Jung, \textit{Symbols of Transformation} (R.F.C. Hull trans., 2d ed. 1967); Jung, \textit{supra} note 56; C.G. Jung & C. Kerényi, \textit{Essays on a Science of Mythology} (R.F.C. Hull trans., Bollingen Paperback 1969) (1949); James N. Powell, \textit{The Tao of Symbols} (1982). Jung himself was strongly influenced by the writings of Schopenhauer. See C.G. Jung, \textit{Memories, Dreams, Reflections} 69-72 (Aniela Jaffé ed. & Richard & Clara Winston trans., revised ed. 1965) [hereinafter Jung, \textit{Memories}]. Both Jung and Schopenhauer saw Jesus Christ as the symbol or embodiment or personification of the goal of human existence; for Jung, the Self archetype, see \textit{id.} at 279; for Schopenhauer, the denial of the will-to-live. See 1 Schopenhauer, \textit{Will and Representation}, \textit{supra} note 16, at 405.
\item 2 Schopenhauer, \textit{Will and Representation}, \textit{supra} note 16, at 628.
\item 2 \textit{id.}
\end{enumerate}
\end{footnotesize}
each of us, and between Jesus and Adam.\textsuperscript{153} The source of the startling nature of the comment, therefore, lies not in its being inconsistent with anything Schopenhauer had said previously (it is quite consistent), but rather in its implications. If true, Schopenhauer's statement at once solves two great theological enigmas: the doctrine of the inherited responsibility for original sin and the doctrine of the mystical body of Christ. Anyone raised in the Christian tradition will recall the difficulties that theologians have had in explaining how it is that each of us is saddled with the responsibility for the original sin of Adam, difficulties so obvious that they moved the monk Pelagius in the fourth century to deny the doctrine and to found a heresy that was still being addressed a thousand years later at the Council of Trent.\textsuperscript{154} In Schopenhauer's thought, each of us \textit{is} Adam, and the justice of holding each of us responsible for Adam's sin exists at the level of what Schopenhauer refers to as "eternal justice."\textsuperscript{155} At the level of deep reality, we are more than our brother's keeper—we \textit{are} our brother. We \textit{are} our neighbor. We \textit{are} our enemy. Schopenhauer indeed startles and unnerves us—not so much because he \textit{attacks} what Christians believe, but because he somehow seems to \textit{defend} those beliefs so much better than they have been able to defend themselves.\textsuperscript{156}

But this metaphysical inter-identity among us all is just that—metaphysical. It exists only at the deep level of true reality, a level that is all but foreclosed from us. We must of necessity—a necessity imposed by the very structure of our perceiving minds—function at the level of phenomena, within the constraints of time, space, causality, plurality, and individuation, behind the veil of Maya. But there are occasional breakthroughs. At times the breeze of the Platonic Idea sweeps the veil aside momentarily and we get a glimpse of the unity of subject and object in aesthetics. And at times, in our relations with one another, we have another glimpse at the deep level of true reality. Aesthetics is often linked with ethics, and the two are not unconnected in Schopenhauer's thought. Just as, in aesthetics, one can reach the level of the Platonic Idea

\textsuperscript{153} Not incidentally, the strong connection between the phenomenon of Jesus and the phenomenon of Adam is recognized by Paul in \textit{Romans} 5:14.


\textsuperscript{155} See supra notes 111-29 and accompanying text. For Schopenhauer's treatment of Adam, original sin, and the Savior, see 1 \textit{Schopenhauer, Will and Representation}, \textit{supra} note 16, at 405-06.

\textsuperscript{156} The ease with which much (though obviously not all) of Schopenhauer's thought fits the Christian mold alarmed Frederick Copleston, S.J., who felt it necessary to admonish his Christian readers, through several pages of his monograph on Schopenhauer, that the philosopher should not be read as a Christian apologist. \textit{Copleston, supra} note 25, at 209-12.
and see through the delusional separation of subject and object, so to, in ethics, one can also see through the delusion of plurality. The vehicle? Compassion.

C. Compassion

Schopenhauer identified compassion as “the sole non-egoistic motive” and “also the only genuinely moral one.”\(^{157}\) In doing so, he was not breaking new ground. Rousseau, in Emile, his great essay on education, had identified “‘pity and compassion’” as “‘the sole natural virtue’” and the source of all the natural virtues.\(^{158}\) Moreover, Rousseau saw an inter-identification between the observer and the sufferer as defining the concept of compassion, as did Schopenhauer decades later.\(^{159}\)

Where Schopenhauer did break new ground was in providing a metaphysical foundation for the virtue of compassion, and for compassion being the original fountainhead virtue. This is no mean feat. Immanuel Kant has been criticized for painting himself into a metaphysical corner with his conclusion that true reality, the thing-in-itself, is absolutely unknowable, thus depriving his theory of morals of the possibility of a grounding in true reality.\(^{160}\) We have seen that Schopenhauer wholeheartedly accepted Kant’s metaphysical premises—the subjectivity or ideality of space, time, and causality—but believed that he had found a way to avoid Kant’s metaphysical conclusion.\(^{161}\) Schopenhauer believed that the human being can come to a knowledge of true reality, the thing-in-itself, which he identified as “will.” Thus Schopenhauer was able to tread on metaphysical ground which Kant had to avoid. Kant was forced by his metaphysical presuppositions and conclusions to stay at the level of the intellect, which led him inexorably to the scholastic notion of reason binding “will” through duty. Schopenhauer had a freer hand. Schopenhauer could search for the source of morality not only in the in-
tellect, but also in the "thing-in-itself." While Kant's theory of morality had to be a theory of "duty," Schopenhauer's could be (and was) a theory of "virtue."

VII. SCHOPENHAUER AND LUTHER

A. The Foundation of Morality

Schopenhauer's great insight, in the context of morality, was very much an echo of the great insight Martin Luther displayed in his *Commentary on the Epistle to the Romans*. Schopenhauer saw no good in doing something for duty's sake when doing the act goes against the true character of the person involved. Luther had the same view:

[W]ith human laws—the law is fulfilled by works, even though there is no heart in them.

But God judges according to what is at the bottom of the heart, and for this reason, His law makes its demands on the inmost heart and cannot be satisfied with works, but rather punishes works that are done otherwise than from the bottom of the heart as hypocrisy and lies.

Schopenhauer, echoing Luther, saw the foundation of morality as a problem of metaphysics, rather than as a problem of ethics, that is, what one is, rather than what one does. His metaphysics has something quite clear to say about the ethical milieu in which we find ourselves:

[N]ature has her centre in every individual, for each one is the entire will-to-live. . . . Accordingly, he conceives himself as the kernel and centre of the world, and considers himself infinitely important. On the other hand, if he looks outwards, he is then in the province of the representation, of the mere phenomenon, where he sees himself as an individual among an infinite number of other individuals, and consequently as something extremely insignificant, in fact quite infinitesimal. . . . To this, therefore, is due the great difference between what each one necessarily is in

---

163. See, e.g., SCHOPENHAUER, MORALITY, supra note 6, at 65-66 (stating that Kant's position is duty-oriented and calling the position "absurd moral pedantry").
164. LUTHER, supra note 162, at xiii. There are many parallels in the thinking of Martin Luther and Arthur Schopenhauer. Both believed that goodness or badness comes from the deep heart (Luther) or character (Schopenhauer). Both saw the flesh (Luther) or the phenomenal self (Schopenhauer) as the source of evil. Both argued against the concept of the freedom of the will. And finally both believed that change is possible only through some cataclysmic, paradoxical, and super-natural event: God's grace and the gift of faith, for Luther; the denial of the will to live, for Schopenhauer. See 2 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 607.
165. SCHOPENHAUER, MORALITY, supra note 6, at 144-45.
his own eyes, and what he is in the eyes of others, consequently egoism, with which everyone reproaches everyone else.\textsuperscript{166}

The base condition in which we find ourselves is egoism. And because our perceiving minds function normally in the world of phenomena, where time, space, causality, plurality, and individuality hold sway, our egoism is conditioned by those factors. We separate the world into “I” and “Not-I.” But, according to Schopenhauer’s metaphysics, at that other level—the level of thing-in-itself or true reality—none of those factors holds sway. At the level of true reality, our egoism is a very basic and fundamental error. It is not simply an error of personal illusion that be- sets each of us (although it is that). The “will” itself, since it exists whole and entire in each of us, is in error. In Schopenhauer’s words, “[i]ndividuation . . . keeps the will-to-live in error as to its own true nature.”\textsuperscript{167}

We have seen that Schopenhauer does not find the gap between the world of phenomenon and the world of thing-in-itself to be unbridgeable.\textsuperscript{168} And it is in bridging this metaphysical gap that Schopenhauer locates virtue (and vice).

In some men the sight of other men at once arouses a hostile feeling, in that their innermost being declares: “Not me!” There are others in whom it at once arouses a friendly interest: their inmost being says: “Me once more!” Countless gradations lie between these two extremes.

\ldots

What distinguishes a moral virtue from a moral vice is whether the basic feeling towards others behind it is one of envy or one of pity: for every man bears these two diametrically opposed qualities within him, inasmuch as they arise from the comparison between his own condition and that of others which he cannot help making . . . .\textsuperscript{169}

It is fairly easy to see where envy and pity (compassion) come from. Envy results from the fundamental error identified in Schopenhauer’s metaphysics, egoism. Compassion, on the other hand, has stronger roots. It comes from the recognition that “[m]y true inner being exists in every living thing as directly as it makes itself known in my self-consciousness only to me.”\textsuperscript{170} For Schopenhauer, “genuine virtue . . . must spring from

\textsuperscript{166} 2 SCHOPENHAUER, \textit{Will and Representation}, supra note 16, at 599-600.
\textsuperscript{167} 2 id. at 601.
\textsuperscript{168} See supra notes 37-41 and accompanying text.
\textsuperscript{169} SCHOPENHAUER, \textit{Essays}, supra note 15, at 144, 134.
\textsuperscript{170} SCHOPENHAUER, \textit{Morality}, supra note 6, at 210.
the intuitive knowledge that recognizes in another's individuality the same inner nature as in one's own."\textsuperscript{171}

What emerges from all this is that, in Schopenhauer's thought, there are only three fundamental "incentives" of human action, all motives being stimulated by one or another. They are:

(a) Egoism: this desires one's own weal (is boundless);
(b) Malice: this desires another's woe (goes to the limits of extreme cruelty); and
(c) Compassion: this desires another's weal (goes to the length of nobleness and magnanimity).\textsuperscript{172}

Of these incentives, only compassion has anything to do with moral worth. Compassion is "the primary ethical phenomenon."\textsuperscript{173} It is "a state of being immediately motivated by the sufferings of another."\textsuperscript{174} It is "simply and solely ... the real basis of all voluntary justice and genuine loving-kindness. Only insofar as an action has sprung from compassion does it have moral value; and every action resulting from any other motives has none."\textsuperscript{175}

Schopenhauer made it clear that the compassion that lay at the base of his system of morality had ontological significance. It was not the shallow, ephemeral feeling that some had held it to be:

I must censure the error of Cassina. ... His view is that compassion arises from an instantaneous deception of the imagination, since we put ourselves in the position of the sufferer, and have the idea that we are suffering his pains in our person. This is by no means the case; on the contrary, at every moment we remain clearly conscious that he is the sufferer, not we; and it is precisely in his person, not in ours, that we feel ... his pain as his, and do not imagine that it is ours. ... [T]he explanation of the possibility of this highly important phenomenon ... can be arrived at only metaphysically.\textsuperscript{176}

Schopenhauer was writing of a much rarer phenomenon than was Cassina.\textsuperscript{177} There are, in truth, two "compassions": one prevalent and superficial, the other rare and ontological in depth. Tolstoy saw the difference clearly when he wrote of aristocratic women shedding tears over the performance of actors in a play while their coachmen sat shivering in the

\textsuperscript{171} \textit{Schopenhauer, Will and Representation, supra} note 16, at 367-68.
\textsuperscript{172} \textit{Schopenhauer, Morality, supra} note 6, at 145.
\textsuperscript{173} \textit{Id.} at 148.
\textsuperscript{174} \textit{Id.} at 147.
\textsuperscript{175} \textit{Id.} at 144.
\textsuperscript{176} \textit{Id.} at 147.
\textsuperscript{177} \textit{Cassina, Saggio Analitico Sulla Compassione} (1788).
snow outside.\textsuperscript{178} There is a danger in recognizing that compassion is ontologically based, the danger of becoming a Francis of Assisi, a Mohandas K. Gandhi, or a Mother Teresa.\textsuperscript{179} It is humankind's misfortune that the latter type of compassion surfaces so rarely. But its ontological base, the basic unity of all existence, is present fully in each of us.

It may seem, at this point, as if Schopenhauer has laid the groundwork for a very worthwhile system of personal ethics. One may have been acting selfishly or maliciously all one's life, but with the great insight that Schopenhauer's metaphysics provides, that is, an understanding of the fundamental unity underlying all existence, one can change and begin to act unselfishly and altruistically and begin to grow in tolerance and love. The problem—and it is a big one—is that Schopenhauer did not believe that the human will is free in anything but a transcendental sense. Moreover, it is not that Schopenhauer's thoughts on the freedom of the human will were developed in some unconnected context, rendering their application to his theory of morality accidental or problematic. He saw no way of reconciling the doctrine of free will with his theory of morality: "\textquoteright\textquoteright If one assumes the freedom of the will, it is absolutely impossible to say what is the source both of virtue and of vice . . . .\textquoteright\textquoteright\textsuperscript{180}

The source of virtue and vice, in Schopenhauer's thought, is "the in-born character," the "real core of the whole man."\textsuperscript{181} And this "character" is, in Schopenhauer's thought, nothing less than the "will" itself in its particular objectification, the Platonic Idea that is represented in this or that particular human being.\textsuperscript{182}

\section*{B. On the Freedom of the Will}

A very basic part of Schopenhauer's theory of justice is his treatment of the age-old issue of free-will versus determination. We saw in the introduction to this Article that Schopenhauer had submitted an essay \textit{On...}
the Basis of Morality to a contest sponsored by the Danish Royal Society of the Sciences, and that, although his was the only entry, he lost. There was, however, a similar essay contest in which Schopenhauer emerged as the winner. In 1839 Schopenhauer was awarded a prize by the Scientific Society of Trondheim, Norway, for his essay On the Freedom of the Will. It should be remembered that both essays were written two decades after Schopenhauer had completed the first edition of his great but then-as-yet unheralded metaphysical opus, The World as Will and Representation. Hence his thoughts on the freedom of the will, on the basis of morality—his theory of justice in general—flow directly from the metaphysical principles he sought to establish.

Schopenhauer's thoughts on the freedom of the will hark back to that part of his metaphysics that deals with "Platonic Ideas." We saw earlier that for Schopenhauer the "Platonic Idea" is something quite close to the thing-in-itself, or "will." It is, in fact, the thing-in-itself, "will," with but one limitation: it is perceived not in itself, as it really is, but rather in the relationship that object bears to the perceiving subject. The "Platonic Idea," in Schopenhauer's thought, is the immediate, directly perceived objectivity of the "will" at a definite "grade." The "will" does seem to reveal itself through the "Platonic Ideas" to our perceiving mind as existing at definite grades of objectivity: "What appears in clouds, brook, and crystal is the feeblest echo of that will which appears more completely in the plant, still more completely in the animal, and most completely in man. . . . [T]he essential in all these grades of the will's objectification constitutes the Idea." At levels below man, Schopenhauer's "Platonic Idea" seems similar to what the scholastics would term "essence"; for example, that which makes a cloud to be a cloud is its essence and that essence is shared by all other clouds. In science, the term would likely be "species." Schopenhauer eschews the term "essence" and favors "species." The species in nature are the empirical correlates of the Ideas.

At the level of the human being, however, Schopenhauer's understanding of "Plato's Ideas" takes a specific and most interesting turn. Each individual is capable of representing one special Platonic Idea: "The char-

183. See supra part I.A.
184. SCHOPENHAUER, FREEDOM, supra note 17.
185. SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16.
186. 1 id. at 170.
187. 1 id.
188. 1 id. at 182.
189. See, e.g., 1 id. at 179; 2 id. at 364-65.
190. See HAMLYN, supra note 53, at 106.
acter of each individual man, in so far as it is thoroughly individual and not entirely included in that of the species, can be regarded as a special Idea, corresponding to a particular act of objectification of the will."\textsuperscript{191} Whether one accepts or rejects Schopenhauer's understanding of "Plato's Ideas,"\textsuperscript{192} it is clear that in positing each human being as a "special Idea" (in a sense, almost positing each human being as a veritable Darwinian "species" in itself), Schopenhauer was carving an enormously important place for each individual in his philosophy. Each human being, in Schopenhauer's thought, is a special, unique objectification of the universal "will."

With this individualistic tinge to it, Schopenhauer's thought might be expected to move in the direction of a strong concept of individual freedom, but it does not. Quite logically, and inexorably, Schopenhauer's conception of the individual human being as a special "Platonic Idea" led to the contrary conclusion. Recall that the thing-in-itself, true reality, lies outside the constraints of time, space, and causality. The thing-in-itself of each human being, what Schopenhauer terms each human being's character, is thus not determined over time. Each human being's true reality, his or her character, is what it is at all times, because it lies outside time. What lies inside time is each human being's understanding of his or her own character, that is, what Schopenhauer refers to as "the empirical character":\textsuperscript{193} "[T]he empirical character . . . is . . . bound to time, space, and causality . . . ."\textsuperscript{194} The empirical character, in the sense of a human being's understanding of his or her own ultimate and timeless character, can change. One can become more knowledgeable, or for that matter, less knowledgeable about one's own character, and this change produces an illusion of freedom, but it does so only by confusing "freedom," a "will" concept, with "knowledge," an intellect concept. Only the knowledge and consequently the understanding change. The underlying character remains what it is.\textsuperscript{195}

But a certain type of freedom—yes, even freedom of the will—does exist in Schopenhauer's thought. Not only is a human being's thing-in-itself (or "character") not subject to time, it is also not subject to causality.\textsuperscript{196}

\textsuperscript{191} Schopenhauer, Will and Representation, supra note 16, at 158.
\textsuperscript{192} Bryan Magee seems to consider it all but irrelevant to Schopenhauer's main theses. Magee, supra note 18, at 238-39.
\textsuperscript{193} Id.
\textsuperscript{194} Id. at 97.
\textsuperscript{195} The reasoning that led Schopenhauer to conclude that there is no freedom of the will at the empirical level (the level of appearances) is not unlike the reasoning that led some Christian theologians to adopt a doctrine of predestination. See id. at 50-52.
\textsuperscript{196} Id. at 96-97.
So, "the inner being of man-in-himself" is free. Freedom exists not in action, but rather in being: "[W]e must no longer seek the work of our freedom in our individual actions, as the general opinion does, but in the whole being and essence (existentia et essentia) of the man himself." 197

What is the significance of this "transcendental" freedom of the will—this freedom at the level of "the inner being of man-in-himself"? If freedom does exist at the deep level of true reality that transcends time, space, and causality, how does it work? Can the inner being of man-in-himself or woman-in-herself choose? Choose what? To do this or that? No; Schopenhauer has said that we must not seek the work of freedom in individual actions, but rather in the individual's whole being and essence.

Can the inner being of man-in-himself or woman-in-herself choose a whole new being and essence? Curiously, Martin Luther posited such an event three hundred years before Schopenhauer. Luther found it in a theological perspective, and in the context of Christian faith: "Faith . . . is a divine work in us. It changes us and make us to be born anew of God (John 1); it kills the old Adam and makes altogether different men, in heart and spirit and mind and powers, and it brings with it the Holy Ghost." 198 Schopenhauer, of course, did not write from a particular theological perspective (although he often drew on those who did), but the place of this transcendental freedom of the will in his philosophy is no less dramatic than the place occupied by Christian salvation in Luther's theology. For Luther, it was possible for the individual human being, with the grace of God and through faith, to "kill the old Adam." 199 For Schopenhauer, it was possible for the individual human being, through knowledge, to deny the will-to-live.

Thus, two factors blunt the sharpness of Schopenhauer's position denying free will: He holds that (1) the "will" is free at the deep level of true reality, and (2) even at the level of phenomenon, where the "will" is not free, correction of cognition can have some moral influence. Schopenhauer's position denying free will at the level of phenomena, but

On the other hand, the condition and basis of this whole appearance . . . is his intelligible character, i.e., his will as thing-in-itself. It is to the will in this capacity that freedom, and to be sure even absolute freedom, that is, independence of the law of causality (as a mere form of appearances), properly belongs.

This freedom, however, is transcendental, i.e., it does not occur in appearance. It is present only insofar as we abstract from the appearance and from all its forms in order to reach that which, since it is outside of all time, must be thought of as the inner being of man-in-himself.

Id. at 97.
197. Id.
198. LUTHER, supra note 162, at xvii.
199. Id.
admitting it at the transcendental level of true reality, is not unlike that of
Martin Luther. Luther denied free will, but held that the human being
can, at a transcendental level (by the grace of God and a trusting faith),
effect such a change of character to such an extent that one is a new
person.200 In both cases, it is an all-or-nothing kind of freedom. And in
both cases, correction of cognition has no effect whatsoever on character,
the true inner being of the person.

[T]he undertaking to remove the failings of character of a man
by means of talk and moralizing and thus to reform his character
itself, his essential morality, is exactly like the attempt to change
lead into gold by external action, or by means of careful cultiva-
tion to make an oak produce apricots.201

Schopenhauer and Luther also exhibited a similarity of approach when
dealing with individual attempts to act in a morally good manner. There
is a place for moral effort in the scheme of things. For Luther, moral
effort, the effort to obey the moral law, forces the human being to see
"how deeply sin and evil are rooted in his soul."202 The role that the
moral law in the context of self-knowledge occupied in Luther’s thought
was occupied by correction of cognition in Schopenhauer’s: "[T]hrough
that which we do we only find out what we are."203 And: "[T]he cognitive
faculty . . . actually learns the nature of its own will only from its actions,
empirically."204 In both cases, "[w]e must no longer seek the work of our
freedom in our individual actions, as the general opinion does, but in the
whole being and essence (existentia et essentia) of the man himself."205
For Luther, this ultimate "work of freedom" is salvation by grace through
faith. For Schopenhauer, it is the denial of the will-to-live. For both, it
amounts to surrender to (or a leap of faith in) a transcendence.

VIII. SCHOPENHAUER AND CONTEMPORARY JURISPRUDENTIAL
THOUGHT

The implications of Schopenhauer’s theory of justice for contemporary
jurisprudential thought are as sweeping as they are profound. Contempo-

200. Id. at xvi, 119; see also Schopenhauer, Freedom, supra note 17, at 65 (citing
Martin Luther as "disput[ing] the freedom of the will with all its vehemence").
201. Schopenhauer, Freedom, supra note 17, at 54. Luther was, perhaps, even more
vehement in denying the freedom of the "will": "All testimonies (of the Scripture) which
deal with Christ oppose the freedom of the will." Martin Luther, On the Bondage of
the Will 220 (Schmidt ed. 1707), quoted in Schopenhauer, Freedom, supra note 17, at
65.
202. Luther, supra note 162, at 76.
203. Schopenhauer, Freedom, supra note 17, at 62.
204. Id. at 96.
205. Id. at 97.
rary jurisprudential thought, plagued as it is by polar inconsistencies in its views of humanness itself, and without a metaphysical grounding for its tenets and propositions, has been drifting back towards early-twentieth-century forms of philosophical pragmatism. On the one hand, legal economists and public-choice theorists sometimes see the human being as nothing more or less than "an egoistic, rational, utility maximizer." On the other hand, contemporary civic republicans and other communitarians see the human being as an entity fully capable of an altruistic cooperative solidarity. Both views cannot be true, yet both views command responsible adherents, leading some, like John Rawls and Adam Smith long before him, to strive for a melding of the two seemingly inconsistent views, with problematic success in each case.

Schopenhauer's theory of justice accommodates both views of humankind with ease. At the phenomenal level, the level at which we live our daily lives, the human being is an egoistic, rational utility maximizer, allowing in the chaos of self-interest which permeates the affirmation of the will-to-live. And yet, according to Schopenhauer, that level of phenomenal reality is but an illusion. Deep down at the unfathomable level of the noumenal, the human being is different. At the noumenal level, the human being is a oneness, a unity which goes even beyond comm-unity, beyond social siblinghood, a unity of all-encompassing identity.

The legal economists and public-choice theorists sense the phenomenal level of everyday reality. The civic republicans and other communitarians sense the noumenal level of eternal reality. Each grasps reality at a level


209. Rawls' "veil of ignorance" can be seen as melding the two views of humankind, as it starts from a premise of self-interest but it yields communitarian results. See Marcin, supra note 2, at 372-78. Adam Smith's device for melding the two views was the "invisible hand" whereby somehow the result of individuals acting in their own self interests is social betterment. See 1 ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS 455-56 (R.H. Campbell et al. eds., Liberty Classics 1976) (1776); ADAM SMITH, THE THEORY OF MORAL SENTIMENTS 184-85 (D.D. Raphael & A.L. Mackie eds., Liberty Classics 1976) (1759).
which is incomplete, and contemporary jurisprudence has come to sense the fact that neither the communitarians nor the economists have successfully taken the measure of humankind. Hence the attraction of philosophical pragmatism with its skeptical attitude towards truth, wherein "the ideas of truth and falsehood, in their full development, appertain exclusively to the experiential method of settling opinion."210

Contemporary quantum physicists, as we have seen, tell us that there are two levels of reality, or two "worlds" inhabited by us—a Newtonian world at the level of perception in which we are ruled by the principle of cause and effect, discreteness, and the arrow of time—and a quantum world at the unobservable level of bare existence in which all is one and one is all and one and all are driven by the angst of tendency and probability.

Schopenhauer, as we have seen, tells us the very same thing in the context of justice. We inhabit two worlds—a legal world at the level of perception in which we rule and are ruled by responsibilities and duties, rights and entitlements, all controlling for what would otherwise be the law of the jungle—and a noumenal world at the unfathomable level of true reality in which the law of the jungle can only be understood as an inexorable demand of eternal justice, angst feeding on itself.

Schopenhauer's dualism yields some interesting conclusions for contemporary jurisprudential theorists. At the phenomenal level, the level of everyday life, Schopenhauer is one with the legal economists and public choice theorists. Jurisprudence should be behavioristic.211 Schopenhauer, who denied the freedom of the will at the phenomenal level, could only see the law in behavioristic terms. He found the essence of the behaviorist credo in Seneca's Laws: "'No sensible person punishes because a wrong has been done, but in order that a wrong may not be done.'"212 Law must operate at the phenomenal level, not the noumenal level, and at that phenomenal level, self-interest reigns supreme. An other-interest cannot be legislated. The only thing that can be legislated is a course of conduct whose results would be the same as those that would ensue if people were other-interested. The law can only affect behavior, and cannot effect a change in will and disposition:

[W]ill and disposition, merely as such, do not concern the State at all; the deed alone does so (whether it be merely attempted or carried out), on account of its correlative, namely the suffering

211. See POSNER, supra note 4, at 169-96. Posner has concluded that "[b]ehaviorism is the only practical working assumption for law, and its dangers have been exaggerated." Id. at 178.
212. 1 SCHOPENHAUER, WILL AND REPRESENTATION, supra note 16, at 349 n.48.
of the other party. Thus for the State the deed, the occurrence, is the only real thing . . . \textsuperscript{213}

Posner puts it in more contemporary language: "The behaviorist approach seems to leave no room for appeals to conscience, for a sense of guilt, of remorse; it seems to strip the moral as well as the distinctively human content from the criminal law. The pragmatic reply is, So what?"\textsuperscript{214}

Schopenhauer's lesson for the civic republicans and other communitarians of today is that the fundamental sense of solidarity among all human beings that they seem to be trying to bring to the fore is a chimera. In one sense it already exists, but at an all-but-unreachable level. Striving for it at the level of phenomena, where self-interest reigns, only results in its eventual negation, well exemplified in the us-against-them attitude which reached shuddering excesses in the aftermath of the altruistically republican era of the French Revolution\textsuperscript{215} and in countless other less dramatic political adventures in altruistic solidarity.\textsuperscript{216} In zen, and perhaps in contemporary political terms, it is like trying to rid one's self of the right side of one's body by constantly moving more and more to the left.\textsuperscript{217}

Schopenhauer's only answer to the duality was his advocacy of the denial of the will-to-live. He saw the denial of the will-to-live as the only way of reaching the otherwise unreachable and incorporating into one's consciousness that fundamental, noumenal truth about human existence—and that only on the level of the individual.

Earlier in this Article it was suggested that the Schopenhauerian approach to justice might lead quite naturally in two directions: the direction taken much earlier by Martin Luther, and the direction taken somewhat later by Mohandas K. Gandhi. By far the more interesting of the two directions jurisprudentially is the one taken by Gandhi. Schopenhauer would feel quite comfortable with the Lutheran doctrine of individual salvation by rebirth in faith, since he confined his discussion of the denial of the will-to-live to the possibility of its achievement in the life of the individual. One wonders how amazed Schopenhauer would

\textsuperscript{213} id. at 344.
\textsuperscript{214} POSNER, supra note 4, at 177-78.
\textsuperscript{215} See Marcin, supra note 2, at 373.
\textsuperscript{216} See, e.g., id.
\textsuperscript{217} Of course, one may apply the same thought to the legal economists and public-choice theorists, who in similar terms may be trying to rid themselves of, or at least ignore, the left sides of their bodies by constantly positioning themselves more and more towards the right. The thought here is that both perspectives are valid, but both are also limited. Needed, of course, is a transcendent perspective, which Schopenhauer would identify as the denial of the will-to-live.
have been at the Gandhian idea of taking the denial of the will-to-live (in Gandhian terms, the doctrine of *ahimsa*) to the social level.\(^{218}\)

If the individual, according to both Schopenhauer and Luther (and many Christian and other theologians), can experience a true rebirth—a change of character from a world- and flesh-oriented “Adam” nature, to a deeper spirit-oriented “Christ” nature, can society-at-large undergo a similar experience? The lives and works of Gandhi and his followers, including Martin Luther King, Jr., are testament both to the possibility and to the difficulty of such a social metamorphosis.

It may be that the civic republicans and other communitarian theorists of today are trying, consciously or unconsciously, to do exactly that—to touch the noumenal unity which lies at the deepest level of human existence, to free us from the individual, self-interested utility maximization of the old Adam nature and bring us to the new spiritual aion of enlightenment of the Christ nature. The civic republicans and other communitarians do seem to want to lead us from a present age or aion characterized by something unpleasant—an unsatisfying centering on isolating and divisive individual and group self-interests—to a new salvational age or aion characterized by something that has been missing—a productive spirit of solidarity and a recognition of a unifying inter-identity among all of mankind. If so, Schopenhauer, for all his crusty misanthropy, may have something to contribute to their quest; for Schopenhauer’s doctrine of the denial of the will to live is a look at salvation from the vantage point of the unsaved. It is not the effort of a Gautama Siddhartha or a Mohammed or a Christian mystic to explain what he or she has seen on the other side of “enlightenment.” It is the affirmation of someone who has *not been* there, that something *is* there, something ineffable, yet real—something worth the quest.

---

\(^{218}\) See Marcin, *supra* note 2, at 387-91.