

## IS GRIFFIN A MILLIAN UTILITARIAN AFTER ALL?\*

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### ABSTRACT

Griffin's ethics are a welcome return to ethics after many years of relativism, of unquestionable principles as in Rawls, and of a broadly popular formalism that did little to improve value judgement. Written from the most interesting viewpoint of substantive ethics, Griffin's work is a complete treatise on Ethics, ranging from meta-ethics, or justification of values, to normative and practical ethics. Realistic and sensible, he bases morality in prudence, filling in important gaps, such as those between reason and desire, prudence and morality, etc.

Apparently his book *Value Judgement* is a refusal of utilitarianism, neokantianism and virtue ethics. In my opinion, however, it is heavily influenced by Mill, using different words for the same purposes or aims. The idea that being human is better than being happy is a central indicator of how much Mill's idea of a happy life is retained in Griffin's idea of human life or personhood.

Of course Griffin lacks the force of an ethical reformist, although in his deliberately modest way he calls for moral education and the development of sympathy. His rejection of unlimited impartiality is one of the more polemic issues in his work and his evaluation of law and institutions like property or family needs clarification.

In my opinion, Griffin's ethics is rather sound and realistic, even though this approach considers human psychology as an unavoidable datum. Human beings are really much more indeterminate and environmental, social and formal education can change human capacities so much.

More than a classical utilitarian, Griffin may be considered a reluctant Millian in a world very different from Mill's own.

**Keywords:** *value judgement, sympathy, evaluation of law, human rights, property, family*

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\* Aceptación: Mayo 2001

Este trabajo ha sido realizado en el marco del Proyecto de Investigación: "Antecedentes, influencias y actualidad del utilitarismo de J.S. Mill". BFF2000-0508-C05-01.

## RESUMEN

La ética de Griffin es una vuelta bienvenida a la ética, después de muchos años de relativismo, de principios incuestionables como en Rawls, y de un formalismo ampliamente popular que hizo poco para mejorar el juicio de valor. Escrito desde el más interesante punto de vista de la ética sustantiva, el trabajo de Griffin es un completo tratado de ética abarcando desde la metaética, a la justificación de los valores, a la ética normativa y a la ética práctica. Realista y sensible, basa la moralidad en la prudencia, llenando importantes hiatos, tales como aquellos que se dan entre la razón y el deseo, la prudencia y la moralidad, etc.

Aparentemente su libro *Value Judgement* es una refutación del utilitarismo, del neokantismo y de la ética de las virtudes. En mi opinión, sin embargo, está muy fuertemente influido por Mill, utilizando distintas palabras para los mismos propósitos y objetivos. La idea de que ser humano es mejor que ser feliz es un indicador central de cuánto hay de la idea de Mill de una vida feliz retenido en la idea de Griffin de la vida humana, o la *personaeidad* (*personhood*).

Por supuesto, Griffin carece de la fuerza de un reformista ético, aunque en su deliberadamente modesto modo, él pide educación moral y el desarrollo de la empatía (*sympathy*). Su rechazo de la imparcialidad ilimitada es uno de los más polémicos puntos de su trabajo, y su valoración de la ley y de las instituciones como la propiedad o la familia, necesita aclaración.

En mi opinión, la ética de Griffin es bastante sensata y realista, aun cuando este enfoque considere la psicología humana como un dato insuperable. Los seres humanos están realmente mucho más indeterminados y la educación del ambiente social y formal puede cambiar las capacidades humanas muchísimo.

Más que un clásico utilitarista, Griffin puede ser considerado como un renuente milliano en un mundo muy distinto del propio mundo de Mill.

**Palabras clave:** juicios de valor, empatía, valoración de la ley, derechos humanos, propiedad, familia.

## INTRODUCTION

In this article I shall refer to Griffin's most important works, *Well-Being -Its Meaning, Measurement and Moral Importance* (1986) and *Value Judgement -Improving our Ethical Beliefs* (1996), particularly to the second, being not only his most recent work (that I know of) but the most mature, sensible and provocative.

When reading Griffin the initial impression is most gratifying after so many years of "hidden ethics" that lacked any emphasis on meta-ethics, or theories about the justification of ethics, and normative ethics (only applied ethics seems to have survived). Even political philosophy was reduced to a sort of contractual apparatus with no substantive content, where the tastes of one individual were as good as those of another. Whatever his shortcomings, Griffin's work is rather original in many ways, in spite of the general influence of British moral philosophy, and Mill's

utilitarianism in particular (although Griffin probably would not admit his indebtedness to this "philosophy of fantasy"). Griffin's work can be considered as an aid in limiting the ambitions—at times not at all justified—of contemporary ethics. Nevertheless, it could be argued that utopia is inherent to ethics and that Griffin is overly modest, to the point of converting morality into little more than common sense ethics. This criticism would be most unfair.

Though it may sound a little old-fashioned, I believe in the need for certain ideals in ethics, meaning not an ethics of fantasy but of the desire to change changeable things like institutions, governments, and even people's sociological, psychological or educational limitations. One of my numerous objections to Griffin's framework is that his Psychological Realism is a chimera, because the human psyche is not a fixed concept but an evolving one. It is a pleasant surprise to see how children and even adults change from egotism to sympathetic feelings when they develop in a suitable environment. Sympathy, good treatment, enlightenment, affection, friendship and a little comfort can really work miracles. The best reply to Griffin's fear of an overly demanding utilitarianism alien to human psyche is a passage from Mill's *Utilitarianism*:

"The deeply-rooted conception that every individual even now has of himself as a social being, tends to make him feel it one of his natural wants that there should be harmony between his feelings and aims and those of his fellow creatures. In most individuals this feeling is far inferior in strength than their selfish feelings. But for those who have it, it possesses all the character of a natural feeling. It does not present itself to their minds as a superstition of education, or a law despotically imposed by the power of society but as an attribute which it would not be well for them to be without. This conviction is the ultimate sanction of the greatest happiness—morality" (Mill, *Utilitarianism*, CW; University of Toronto Press, 1969, p. 233).

So Mill, then, would find a grave mistake in considering the human psyche so limited concerning strangers' interests as Griffin suggests. On the other hand, one finds much plausibility in Griffin's attempt to research what he labels prudential values, that help to frame a life of achievements, affection, flourishing, autonomy, etc. They are somewhat similar to Dworkin's life of challenge or to the Greek life of excellence.

Contrary to formal, minimal ethics, Griffin adopts a substantive point of view. His criticism of impartiality is less realistic than he thinks since it is surprisingly Kantian. Kant imposes impartiality on a partial unsympathetic individual, not trusting human capacity for universal pathological love. From the same premise, Griffin concludes the opposite, deriving limited impartiality from limited human capacity.

## 1. JUSTIFYING VALUES?

According to Griffin, most of the substantive ethics that have dominated the history of ethics have been too ambitious. In spite of all their differences, they shared the idea that the critical standards philosophy brought to bear on our inherited views were quite considerable (VJ, p. 1). Griffin appears more conservative and realistic, which represents both the best and the worst of his contribution to contemporary ethics. His foundation of values is very subtle and complex, which leads to misunderstandings.

For example, his arguments about intuitionism are rather ambiguous. On the one hand he seems to be against this sort of meta-ethical approach, as it mixes taboo and prejudice, along with commands that authorities try to get people to internalise. On the other hand, he somehow accepts that intuitions "should be seen as common-sense beliefs" (VJ, p. 7), following Wittgenstein, who posits that rules cannot be understood as a mental standard but only as part of shared practices which are only possible because of what he calls a "form of life". Griffin adds that a form of life seems to consist partly of a certain set of shared values (VJ, p. 7), insisting that intuitions are the basic shared beliefs that make morality possible (see VJ, p. 8).

In a way this resembles what Toulmin maintains in *The Place of Reason in Ethics*, though giving away too much to social conditioning (Griffin is not in any way a "reductionist", as we shall see). Griffin's allegations go much deeper into moral reflection. Values are not created *ex nihilo*, nor do they come from any external authority. They are neither subjective nor objective, but generally valid for all human beings.

Like Hume's ethics, Griffin's prudence and morality are based on human nature and human psyche. Griffin recognises that human beings feel aversion to *pain*. Given the similar physiological and psychological constitution of every human being, what hurts any one must be the same as what hurts any other: to be hated, ill-treated, used, or to lack the sources of life –love, sex, food, the possession of ourselves and the fruit of our work, etc.

We know that we feel aversion to pain and we know what makes us suffer not by any sort of intuition, as Griffin believes, but by induction, that is, by generalised experimentation. Therefore, the "justification" of our prudential values by means of *pure reason* is quite an impossible task, which Kant never understood. But rejecting Kant, as Griffin does, cannot mean asserting the opposite, that justification is not appropriate in ethics (See VJ, p. 17). No doubt that would mean the death of ethics. For then, what would be the task of the philosopher, and of the moral philosopher in particular? Would he or she be limited to clarifying concepts, as analytical philosophy proposed? That is indeed an important job, but not

enough to support substantive ethics. Mill explained in *Utilitarianism* and in *A System of Logic* that values cannot be justified in the ordinary way but were susceptible to proof: "Considerations may be presented capable of determining for the intellect either to give or withhold its assent to the doctrine; and that is equivalent to proof" (*Utilitarianism*, CW, p. 208)

But Griffin assigns too humble a job to moral philosophy, making moral philosophers into more or less qualified moralists, but never critics of the system except in a very weak sense. As Griffin states: "The aim of ethics is to provide norms for us to live by, not to provide the sort of system of beliefs that would lend itself to any known form of justification" (*VJ*, p. 132). The philosopher starts with the norms of those that have gone before: "We demand of these norms that they be serviceable [useful?] protections of values, and some of them fairly obviously are. The norm, *Don't deliberately kill the innocent* protects the value of life, and it, along with related norms such as, *Limit the damage* pass any reasonable test of serviceability. And we constantly subject them to criticism, which sometimes results in amendment. That is enough to undermine the dichotomy: justified or a prejudice" (*VJ*, p. 132).

But is that so? Can we commend existing values as long as the innocent is not killed and damage is limited? From my point of view, modesty is a quality except when it goes too far. As I see values and their function in private and public life, we at least need something having to do with:

- a) *Autonomy*: freedom from prejudice and external pressure.
- b) *Well-being*: maximal quality, quantity and development of deep extended joys.
- c) *Impartiality/sympathy*: that help us consider strangers as neighbours.
- d) *Freedom*: both in the negative and positive sense.

These and other values must not be seen as unconnected things that happen to be serviceable for private or social life, but as values depending on a super-value that Mill called *Happiness* and Griffin would probably call *Humanity* (personhood, *human* beings, etc.). I think Happiness is more appropriate for historical and common sense reasons.

Defended from the most diverse doctrines, this belief is evident throughout the history of moral philosophy, Kant included (especially in his conception of *Summum Bonum*). Seneca asserted that all human beings search for happiness, though blind to the happy life: "Vivere, Galio Frater, omnes beate volunt, sed ad prouidendum, quid sit quod beatam vitam efficiat, caligant" (*De Vita Beata*, I, 1).

From historical research in philosophy, literature, and psychology we could say that the most justified principle in ethics is something like: "Seeking the greatest quality and quantity of *human* happiness, private

and general", along with all means, institutions, policies and the like that make this possible, thus incorporating Griffin's appreciable contribution in connection with the value *human*.

With their different shades, happiness, joy, enjoyment, pleasure, well-being, all form a deliberately ambiguous unique "concept", that makes room for things *humans* value (*humans* could not value anything that makes us unhappy, or sad, unless it is an unhappiness and a sadness for people that are not human, and have not developed their personhood). Except in cases such as Plato or Moore, happiness is not a single entity (metaphysical in Plato and non-natural in Moore). Happiness is usually understood as an abbreviation referring to everything useful for progressive human beings capable of recognising and amending values.

When Griffin states, "we value what makes life *human* over and above what makes it *happy*" (VJ, p. 29), he is constructing nothing more than a sort of tautology. *Human* life is connected with human life, but in a particular way. It refers to enlightened, human beings that have personhood and many other not too common attributes in this day and age. *Human* life is a life of achievements, accomplishments, excellence, dignity, autonomy, affection. What is a *happy* life in Mill's sense but a *human* life in Griffin's sense? If Griffin means that it is better to be a dissatisfied Socrates than a satisfied fool, which is exactly what Mill said in *Utilitarianism*, Griffin cannot but be a reluctant Millian utilitarian.

As I see it, most contemporary misunderstandings of utilitarianism are for lack of clarification of ethical terms, particularly "happiness", perhaps due to its special dominant role in ethics. Philosophically, happiness has always meant *human happiness*. Therefore the most urgent job for moral philosophy nowadays is to gain a deep understanding of human nature and the sources of human joy.

In *Fragen der Ethik*, the leader of the Vienna Circle, Moritz Schlick, addressed the term *desirable*, which for him was meaningless and implied something different from human psyche. *Desirable* was a superfluous term and he recommended using only *desired*, to mean moral values. By stating that what people should desire was nothing more than what they did desire, he sought to convert ethics into a branch of psychology. Of course Schlick was wrong, even though he guessed the link between ethics and psychology. He mistook psychology for a neutral science, not susceptible to mistakes, when we know perfectly well that its language is rather prescriptive and evaluative, unable to reach any definite truth.

To determine what is desired given our human predicament is very different from what we *do* desire when we behave as *human* beings. In *Más allá de la democracia* (*Beyond democracy*), I have emphasised the importance of not confusing the desires of the greatest number of people with the desires of the greatest number of *human* beings (using human in

Griffin's sense). Moral democracies should pay attention not only to present preferences but also to general human preferences (although I did not use the term "human").

Griffin's contribution is quite interesting in this sense, and I am glad that in many ways and with different terms we are fighting the same battle, alongside many others. With more or less ardour we are fighting to avoid misunderstandings regarding the universality of *human* values, which in no way means uniformity of life plans. As Griffin says: "To see anything as prudentially valuable, then, we must see it as an instance of something generally intelligible as valuable and, furthermore, as valuable for any (normal) human" (VJ, p. 29).

It is worthwhile to comment on the list of values that Griffin provides: (a) *Accomplishment*. (b) *The Components of Human Existence*: agency, autonomy, freedom from great pain and anxiety, ...liberty. (c) *Understanding*, a certain anthropocentric knowledge about oneself and one's place in the world. (d) *Enjoyment*. (e) *Deep Personal Relations*. Griffin adds: "When personal relations become deep, reciprocal relations of friendship and love, then they have a value apart from the pleasure and profit they bring" (VJ, p. 30).

If what Griffin asserts is true, what is the purpose of deep personal relations? I think most people agree that to love and be loved is the most pleasant feeling, the deepest state of happiness. Literature and films have moved multitudes when love or mutual friendship appears on the scene. When saints and religious people imagined a state of perfect happiness it was a world of perfect love. The great value of reciprocal love relations cannot be anything but complete well-being, the complete and deep *human happiness* that cannot be compared with anything else in the world. Mystics and pagans alike have exalted Love above all things, and I think history, art, literature and religion would agree with them. Of course there are those who prefer to "use" people, even their lovers or perhaps especially their lovers, rather than loving them, caring for them, suffering with them, being happy with them. The act of intercourse between two people who love deeply is a blessed moment sanctioned as human happiness par excellence by the Supreme Court of Arts and Ethics.

To summarise this part of my criticism of Griffin, I am almost certain that we cannot value anything unless we have a reason to value it. I see no better reason for valuing something very highly than by reference to a system of ethics whose arch-value is, summing up Mill plus Griffin, *greatest human happiness* for every human being.

## 2. PRUDENTIAL AND MORAL VALUES

Griffin's emphasis that the aim of ethics is to teach us to live life brings us back to an ancient art that should never disappear: the art of living,

which for the Greeks included the development of talents both for private and public life.

### 2.1 *The Human Basis of Ethics: Human Rights*

When nowadays we open a Treatise on Moral or Political Philosophy we find a lot of mathematical symbolism and no mention at all of poetry and literature in general, not even classical philosophic phrases or recommendations. The most serious problem with this is the very spirit of moral philosophy: the art of living seems to be lost in benefit of the right to live.

It is unfair to praise advances in recognizing human rights by misleadingly appealing to human "dignity", a most dangerous label that can cover anything, as I have established in *Más allá de la democracia (Beyond democracy)*. This failure to appeal to human happiness as the source of all human rights, including the rights of future generations, can be left behind by following Griffin's thinking.

It would seem that the worries of contemporary moral, political and legal philosophy focus entirely on defending rights, without trying to justify them beforehand. The following questions inevitably arise: why is it worth my time and effort to care about other people's rights? What is the meaning of a "right"? And how can it be justified? Usually we encounter an indiscriminate set of rights, whose precedence can only be "justified" historically, but rarely on philosophical grounds. At most, human "dignity" is called the cause, motive and justification for a series of sacrifices exacted from individuals and society. Sometimes the "justification" is purely prudential as in Rawls' "veil of ignorance", causing people of any position to choose, without sufficient information about their own future status, what would be more expedient to them (in Mill's words).

Thus, the "right to life" is talked about instead of the right to *human life* (freely accepted), allowing for the defence of embryos as if the case concerned babies. Or reluctance to allow euthanasia is shown by claiming that life is sacred, rather than asserting that human liberty to live or not live is the only thing to be respected, which Griffin only mildly criticizes when defending abortion in the limited case of danger to the mother's health, or euthanasia "in certain circumstances." As he states: "We might be prepared to accept euthanasia in certain circumstances or obstetricians' sometimes killing the baby [?] to save the mother" (VJ, p. 102).

The official defenders of rights are really helpless in a case of conflicting rights. Revisiting Kohlberg's treatment of the famous Heinz dilemma, he has the insight to guess that the right to life precedes the right to property (system in ethics, contrary to Griffin's position), but he is unable to justify why life has "superior" moral status to property (see Kohlberg, *The Philosophy of Moral Development*). Mackie is more critical with utilitari-



anism or consequentialism; stating that "the conflicts are to be resolved by balancing these prima facie rights themselves against one another, not by weighing their merits in terms of some different ultimate standard of value, such as utility" (J. L. Mackie, "Rights, Utility and Generalization", in R.G. Frey *Utility and Rights*, Blackwell, Oxford, 1985, p. 88). When he adds later that "right and wrong have to be invented, that morality is not to be discovered but to be made" (*ibid*, p. 98), he must have had in mind some criterion relative to the excellence of invented right and wrong; "basic abstract rights of persons" somehow have to be justified and filled with substance, which he does not do. The development of conventions (*ibid*, p. 98) continues to be a "convention", not a morality.

To Mackie, this exemplifies the contemporary stand on justifying rights: "critical thinking might itself be a process of interaction, negotiation and debate between diverse groups with different starting points, different traditions of thought" (*ibid*, p. 100). But critical thinking has to be more than people's dialogue (as in dialogic ethics), as ultimately some place needs to be given to happiness (see Habermas).

Of course Griffin would be ready to criticize formalism but is reluctant to accept any utilitarian premises. Indeed Griffin does not go so far as Mackie when the latter states that "[t]he real dispute... concerns the choice between Utility and Rights as the central concepts in higher level, critical, moral thinking" (*ibid*, p.103).

Hare's criticism of Mackie seeks to overcome the contemporary lack of foundations for human rights, giving some "content" to Mackie's abstract rights. The abstract right in question is that of equal concern and respect, a mere rephrasing of universalizability (Hare, "Reply to Mackie", in *op. cit.* p. 118). Or as Hare states later on: "I, unlike any right-based theory so far produced, provide a clear basis for the negotiation: the prescriptions they come to in the end have to be such as they can all accept for universal application, whatever individual role anybody plays. The use of this rule in critical thinking will lead negotiators to assign each other at least one entitlement at the critical level, namely the right to equal concern... In fact the whole thing will go just as I say it does, given this ground rule. If this is not to be the ground rule, what other way is there of disciplining the negotiations?" (*ibid*, p. 119).

Though remaining "formal" in a way, Hare, a preference utilitarian, has taken a great step, finding a philosophical basis for justifying rights. Hare has contributed greatly to grounding human rights in moral reasons, but a substantive theory of ethics requires that much more be done.

McCloskey comes close to Griffin when he asserts the need to ground human moral rights in personhood ("Respect of Human Moral rights Versus Maximizing Good", in *op. cit.*, p. 125). In the following lengthy quote

he clarifies the historical foundation of rights and sheds light on Griffin's position:

"Historically, the main approaches to establish the existence of human moral rights have been in terms of seeking to derive them from God or to ground them in human nature and what was necessary for human beings to attain their natural end through perfection of their nature.

The plausible approach... is that the basic fundamental human moral rights are self-evidently so, that to become aware that persons possess such rights we need simply reflect on the nature of human beings and on the concept of moral right... [McClosely recognises that Mill argued for moral rights such as liberty, not simply according legal and social rights].

Basic, self-evident rights include: the rights to life, health, and to bodily integrity; respect for persons and hence respect for one's moral autonomy and integrity, as a possessor of feelings, creative imagination, and needs of many kinds; [the right] to self-development and to education as a condition and element thereof, and access to knowledge and truth. With certain minor qualifications, they are the same for all persons. The derivative rights that follow from these basic rights, which in UN Declarations are so often confused with basic rights, are not self-evident; and they vary from person to person, situation to situation...

The right to life rests on the human being's nature as a moral autonomous being, and as a rational, emotional being with a capacity to control, create, and recreate his or her experiences... Thus the right rests on respect for and acknowledgment of the fact that possession of rational autonomy gives its possessor rights over his own existence...

The right to health, like the right to bodily integrity is related to but not wholly based on the right to life. Ill health and mutilation of the body need not threaten life. To deliberately harm the health of persons is to violate their personhood, impairing capacities, causing needless suffering, overriding wills... Our body is ours to care for and to maintain as the vehicle of our personhood..." (ibid, pp. 126-127).

In a Kantian vein, McClosely adds that to deny respect to persons, not to respect a person's moral autonomy and integrity without good moral reasons (a sound concession to utilitarianism), is to treat the person as a thing. It is to deny his or her *personhood*. McClosely carries on with an aspect that Griffin seems not to notice: "[r]ecognition of such a right seems to be implicit in Mill's major argument for freedom of speech and discussion... (p. 128).

Before turning to Griffin's conception of human rights, let us examine McClosely's incisive criticism of contemporary conceptions of rights based on traditional and neoliberal standards:

"The view that some or all of the basic human moral rights are absolute rights has a long history. Thomists have long argued to this effect, seeing such rights as the right to worship God, to live morally in accord with the natural law, and the right to life, as among the human rights that are always

absolute. More recently, indeed, during the past quarter of a century, this kind of claim has been taken up by a very different philosophical school, that of American libertarians and neoliberarians of which M. Rothbard, J. Hospers and R. Nozick are the best-known members, arguing that the right to private property is always an absolute right." (*Ibid.* pp. 128-129).

In my opinion, Griffin was not terribly sensitive to the possibility of certain moral advantages in abolishing or greatly limiting property, as proposed by Plato and Thomas Moore, or less dramatically by contemporary social democracy. Bentham and especially Mill, were much more sensitive to the ills of poor distribution of goods, or of leaving the greatest economic power in the hands of a few, thus criticising the unlimited right to property. As Alan Ryan puts it:

"The rights a person can claim over unowned things are the subject matter of Locke's theory of property most famously, but they must occupy any theorist's attention. In Locke's account the crucial and contested claim is that a man who acquires something by catching it, picking it, drinking it, or whatever, mixes his [or her] labour with it, and in the process makes it his. The question is whether a utilitarian like Mill who is sympathetic to the thought that individuals have moral rights as well as legal ones is forced to concede that people's moral rights amount to ownership. The answer seems to be no." ("Utility and Ownership", in R.G. Frey *Utility and Rights. op. cit.*, p. 186).

Griffin of course is only a reluctant utilitarian, as I have mentioned in several places; the notion of "utility" is purely formal for him:

"Utility is not to be seen as the single overarching value, in fact not as a substantive value at all, but as a formal analysis of what is to be prudentially valuable for something... Utility will be related to substantive values such as autonomy or liberty, not by being the dominant value that subsumes them, but by being an analysis of, and the related suggestion of a metric for any prudential value. It should be seen as providing a way of understanding the notions (prudentially) valuable and hence "more valuable" and "less valuable"... The notion of utility, although purely formal, is not otiose: it has clarity and scope that refer to particular substantive values, or desirability-characterizations, or reasons for lack of action. And anyway, it is not an uncommon account of utility; it seems to me the best account and the one that nowadays we have to come to terms with" (*Towards a Substantive Theory of Rights*, in *ibid.*, p. 147).

Much could be said about Griffin's particular conception of utilitarianism. To my mind it is as confusing and misleading as any other, although he introduces the idea that utility can be a sort of compass, "a metric". This is not excessively clear if we deny it as the principle to refer to when rights and values conflict, *when we both have and do not have a right to our*

property. That is all that Mill intended, as he insisted that he understood "happiness" as having many features and many different elements.

As far as property is concerned, there is a good example of the limits of "liberty" and the right to possession at the very end of *Utilitarianism*. There he asserts that in order to save a life it is not only permissible, but even a *duty* to rob, or to take by force the necessary food or medicines or to seize and force the only qualified doctor to operate. In such cases adds Mill, showing his deep understanding of human facts, we do not say that justice should be supplanted by any other moral principle, but that what is just in ordinary cases is, by virtue of any other moral principle, unjust in the case at issue. For Mill, justice continues to be the adequate name for certain social utilities, and important as it is, must always take into consideration the greatest happiness, or the least suffering, since its importance derives from its great utility so it cannot forget its own justification (See *Utilitarianism* Chap. 5, CW. Spanish translation, introduction and notes by me: *El utilitarismo*, Alianza, Madrid, 1984, 1991, pp. 132-133)

Griffin's case concerning the justification of moral human rights is different from Mill's only in appearance. For the Irish-American author, rights, including the right to property, must be grounded in personhood, that is the quality of being a person (not a mere human animal although also a human animal). Personhood connects with what I have been calling *human happiness*, that is, that rights are grounded in human happiness in life for all members of humankind.

The importance that Griffin concedes to prudential values in the determination of rights is, for me, one of the most promising contributions of his to moral, political and legal philosophy. However, Griffin's position is somehow confusing, as he mentions but does not fully develop the subtle gap between the Prudential and the Moral; moral values include (as prudential ones do not) fairness and some sort of limited impartiality (due to limited human psychological capacity for impartiality - a most polemic statement by Griffin).

However the relevance of linking rights to prudential values is one important landmark in the history of ethics that not only gives contents to rights but synthesizes the ancient and contemporary concern for having a good life.

## *2.2. The Ethical Appeal of Prudential Values: Some Shortcomings*

Among prudential values Griffin includes such morally attractive notions as accomplishments, achievements that usually imply an indirect way of contributing to the cultural, material or other improvement of humankind in general. Also involved is the capacity for enhancing life or the close relation between reason and desire (Hume plus Kant plus Mill).

However, there are things that must be revised and criticised about the values contained under the label *prudential*. In spite of Griffin's discreet step from the prudential to the moral, there is an unavoidable conflict to which Griffin pays less attention than he should throughout his entire work, as from my point of view it constitutes the core of Ethics: *the impartial point of view*.

It is true that Griffin comes close to impartiality when he distinguishes impersonal values (morally relevant) from personal values (morally irrelevant). Pleasure, accomplishments and the understanding of human psyche should be taken as impersonal values (VJ, p 27), while personal values would only be adequate for the mentally ill and the extravagant (see VJ, p. 9, 28).

But Griffin parts from complete impartiality when making concern for our children our unique prudential concern (VJ, pp. 28-29), forgetting Arthur Miller's extraordinary force when he realises in his highly reputed play *All my sons* that Keller's concern for his son, *neglecting* other people's sons, is malicious and wrong.

(Act Three, close to the end)

Keller: Sure he was my son. But I think to him they were all my sons. And I guess they were....

Chris: Then what was Larry to you? A stone that fell into the water? It's not enough for him to be sorry. Larry didn't kill himself to make you and Dad sorry.

Mother: What more can we be!

Chris: You can be better. Once and for all you can know there's a universe of people outside and you're responsible to it, and unless you know that, you threw away your son because that's why he died".

(Arthur Miller, *All my sons*, in *A view from the bridge / All my sons*, Penguin, London, 2000, p. 170).

Griffin is conscious of the difference I already mentioned between a life of deep commitment to particular persons, institutions, and causes and a moral life that must be a fair life between all people (VJ, p. 29). To the author's mind, though, "it is much more helpful to see this not as a conflict between different kinds of values but rather as a conflict between different concerns and motivations" (VJ, p. 29).

Contrary to Griffin, I think that there is no difference of motivations (or there should not be). When we are improving ourselves we should not (prudentially) do it at the expense of other people's failures, suffering or neglect. We improve ourselves improving the world in general, and in improving the world in general we improve ourselves as *human beings*, as persons, and this is the only way of being *human*, and enjoying *human happiness*.

Coming back to Griffin's and Mill's similarities, Mill does not exact us to neglect our careers, children, deep affections, enhancement of life, etc. As Mill says, loyalties must be respected as the great majority of our actions are thought not to the benefit of the world but of the individuals, from which benefit the good of the world is constituted. And it is not necessary that in such occasions the thought of the virtuous man [or woman] goes farther than the affected persons, except in so far as it is necessary to secure that, when favouring them one is not violating the rights of other people. To multiply happiness is, according to utilitarian ethics, the object of virtue. Occasions in which a person (except one among a thousand) has in her hands to be a public benefactor are but exceptional, and only in those occasions is she asked to take into consideration public utility. In the other cases, she only has to take into account private utility, that is, the interest or happiness of a few persons, although she must abstain from what is pernicious to society (see *Utilitarianism*, Chapter 2, CW; Spanish translation, *op. cit.*, p. 64).

As Mill writes in Chapter 5 of the same work, although being partial does not match justice, favouritism and preference are not always censurable. So people approve of giving preference to our own family [a matter I personally consider very controversial], or to our friends, when acting in this way we do not violate some other duty. Nobody considers it unfair to seek one person with preference to another, either as a friend, acquaintance, or companion. Impartiality, indeed, is obligatory in questions relative to rights and is included in the more general obligations to give every one their due. A Court, for example, must be impartial. Or impartiality is exacted when as judges, parents or preceptor we have to administrate prizes and punishments (see *Utilitarianism*, Chapter 5, CW; Spanish translation, *op. cit.*, p. 106).

From a Millian point of view I have a duty, that Griffin hardly recognises, to contribute (with my vote in the political arena, with my personal commitments in social and community life) to the prospering of other persons, and other people's children, and this is not a compulsory duty but an act guided by sympathy that is amenable to increase—even in some limited sense—by means of education and social reform. Acting out of sympathy means enjoying our concern for the people we sympathise with, which should be the whole of humankind when we come to know them and feel with them.

Sometimes the only thing that ethics exacts from me is basically an enjoyable life as a happy human being, a happy human life that sets an example for my colleagues, students, friends, children, and every one that happens to know me, or know about me. Most of the time this is, both in Mill's opinion and in my own, all that is required by morality and ethics.