In my previous lecture, I set out to describe the idea of the moral community. I speak of “the” moral community because, as a conceptual matter, moral judgments are insensitive to facts about the particular identities of individuals. If it is morally wrong for me to testify against my father in certain circumstances, then it is morally wrong for anyone to testify against his or her father in the same circumstances. This formal universality of moral judgments underwrites the search for an idea of “the” moral community. I suggested that the moral community is the open-ended set of all individual persons who can wrong or can be wronged by one another. This idea of wronging someone is a dyadic moral notion. In Confucius’s story about the Lord of She, the father of the upright man did not merely act wrongly in stealing the sheep; he also wronged the sheep-owner. Since the latter idea involves one person wronging another, it is a “dyadic” or “two-headed” idea.

I also argued in the last lecture that the anatomy of the moral community is made up of dyadic moral rights and duties, just like these. These are what knits together the fabric of the moral community, providing for its unity.

Today I must face two philosophical challenges to this idea. The first challenge is posed by someone skeptical of the existence of dyadic rights and duties. Do we really need that complicated way of talking? Do we really have to recognize the existence of such things, and of the ontological correlativity that links pairs of dyadic rights and duties together? The second
challenge, which I drew from American philosopher Michael Thompson, questions whether such
dyadic materials can really unify the moral community. The question he poses is this: how can
all persons be united via one set of dyadic normative relations into a single moral community?
At the close of my lecture last time, I summarized the reasons why Humean, Aristotelian, and
Kantian answers to this question must fail.

In today’s lecture, I will take up these two challenges in turn. I will first develop a theory
of dyadic rights that can resist the skeptic. Then, relying on that theory, I will seek to answer
Thompson’s challenge about the unity of the moral community.

The Specificatory Theory of Dyadic Rights and Duties

Any theory of dyadic rights and duties must face the question: Why is it necessary to
speak in this complicated way? We understand that when the upright man’s father stole his
neighbor’s sheep, he presumably acted wrongly. What does it add to be told that, in doing this,
he wronged the sheep-owner? Similarly, we understand that he had a duty not to steal the sheep.
What does it add to say that he had a duty to the sheep owner not to steal the sheep? And,
finally, we understand that the sheep owner had a right that no one steal his sheep. What does it
add to say that he had a right against the father of the upright man that this man not steal his
sheep? Ockham’s razor tells us not to multiply entities beyond necessity. What necessity is
there for positing the existence of dyadic rights and duties?

It is also necessary to avoid confusing dyadic rights and duties with items that look
similar, but are in fact monadic. If I promise to help you move into your apartment, then I gain a
moral duty to help you move into your apartment. To describe my promissory duty, I must
mention you; but this does not make this duty dyadic. Rather, it is just a feature of the content of
my promise. Someone mentioned in the content of a duty is, we might say, simply the “patient” of a duty. Now, notice that I might, instead, have promised you that I would never again chew gum in public, or that I would be nicer to my teachers. In the first of these, the only person my promise mentions is me; in the second, it refers to all of my teachers, perhaps including my future ones. Yet philosophers who defend dyadic duties would say that in the case of all of these promises, I owe my promissory duty to you, the person to whom I made the promise. The person to whom I made the promise—the promisee—is the “counterparty” of this directed duty. He or she is the correlative holder of a dyadic right. What underlies the ontological correlativity of this dyadic duty and its associated dyadic right is that both are ultimately grounded in the same fact: the fact that I promised you I would do something.

Another idea that is sometimes confused with the idea of the counterparty of a dyadic duty is the idea of a source of a duty. This idea of a source of duty is common in Western philosophy, influenced as it is by Christian theology. According to many versions of Christian theology, God is the source of duties. For this reason, some might say, we owe it to God to abide by our duties. Yet this is not the dyadic idea of duty we are aiming to understand. For one thing, it is odd to speak of God as having a right against me that I abide by my duty not to steal. For another, this is to focus on the wrong person or entity. If the upright man’s father owed his duty not to steal the sheep to anyone, he owed it to the sheep-owner.

In Anglo-American philosophy, there are two leading theories of dyadic rights and duties: the Interest Theory and the Will Theory. I cannot argue satisfactorily against these theories today; but I will compare them to the theory I favor, the Specificatory Theory.

The Interest Theory originated in 19th Century in the thought of British legal reformer Jeremy Bentham. Here is a present-day statement of the interest theory:
“‘X has a right [against Y]’ if and only if X can have rights, and, other things being equal, an aspect of X’s well-being (his interest) is a sufficient reason for holding [Y] to be under a duty.”

The interest theory, thus framed as a theory of dyadic rights and duties, is unsatisfactory. It purports to reduce dyadic moral ideas, involving two people, to a monadic one, that of a person’s interests. I see no hope for explaining the ontological correlativity of dyadic rights and duties on the basis of a person’s interests. Accordingly, I will set aside the Interest Theory.

The Will Theory, which was championed by British legal philosopher H. L. A. Hart is, by contrast, non-reductive. It explains dyadic rights and duties on the basis of the higher-order dyadic pair, moral powers and liabilities. Specifically, the powers that the Will Theory makes definitive of rights are a suite of powers of control held by the right-holder, typified by the moral power to waive performance of a duty. To give a paradigmatic example: according to the Will Theory, the fact that the promisor’s duty to keep his promise is owed to the promisee is explained by reference to the fact that the promisee has the moral power to waive her claim to performance—and so, correlatively, to the fact that the promisor is liable to having his duty to perform extinguished by the promisee’s waiver. The Will Theory is at least a contender as an explanation of the correlativity of dyadic rights and duties. By invoking a moral power, the Will Theory presupposes one type of dyadic, correlative form, and uses it to explain another. My own, Specificatory Theory, does the same. Although this approach is non-reductive, it offers the prospect of explanatory gain. This explanatory potential arises from an important conceptual asymmetry between dyadic rights and moral powers. Whereas there are monadic rights and duties, not held against or owed to anyone, moral powers are necessarily dyadic in a way that
supports ontological correlativity. A moral power that is not a moral power over someone is a contradiction in terms.

Although the Will Theory thus seems to have the right kind of form to account for dyadic rights and duties, and specifically their ontological correlativity, the Will Theory has been thought to face counterexamples. It apparently cannot account for inalienable rights or individuals’ rights against criminal mistreatment, since those who hold such inalienable or public rights lack the core moral powers of control that the theory makes definitive of claimants. It also has difficulty with the rights of non-competent humans and with the rights of other animals, since these right-bearers (or purported right-bearers) lack the capacity to exercise these powers.

Like the Will Theory, the Specificatory Theory that I defend centers on moral powers. Because it does so, it has some hope of accounting for the ontological correlativity that defines dyadic rights and duties. But the moral powers that the Specificatory Theory postulates are not necessarily those of the right-holder. Instead, they can be limited to moral powers held by the duty-holder. This means that the Specificatory Theory is not subject to the counterexamples faced by the Will Theory.

Before I state the Specificatory Theory, I need to offer you some further reflections on the connection between rights and the division of labor, about which I said a few things last time. Merely declaring the existence of a right such as the sheep-owner’s right that no one steal his sheep does not suffice to give that right reality. Philosophers and social theorists have different views about what social institutions and practices are most important to giving this right reality. Perhaps the most important are respectful habits and mores, in which people learn to refrain from taking the possessions of others. Perhaps the most important are institutions like the police and the law courts or magistrates, who will punish people who steal. Perhaps both of these are
equally important. For just about any right, it seems, some set of social practices or institutions are necessary to giving those rights an effective reality.  

When societies develop practices or institutions that support monadic rights, like the right not to be assaulted or the right not to have one’s property stolen, societies begin to institute a moral division of labor. With regard to the offenses of assault and stealing, the police may be given special responsibility for prevention and investigation, and magistrates or the law courts may be given special responsibility for punishing offenders.

Suppose that we start with a monadic right not to have one’s expectations disappointed by someone else who has intentionally attempted to assure me that he would do something, where we both know this. In the absence of any supporting social practice, this right might have no effective reality. As it turns out, however, most societies, if not now all, have developed supportive practices of promise-making. These practices help give reality to this monadic right against disappointment by supportively giving definite, conventional shape to people’s expectations and habits.

In this variety of ways, social practices and institutions assign special responsibilities to people for helping give reality to the monadic rights of others. We can say that these practices and institutions “specifically address” these special responsibilities with regard to monadic rights to distinct individuals. Where these social practices and institutions are well-functioning and legitimate, these special responsibilities will be morally justified. For example, members of the police will have special responsibilities to prevent assault that are at least partially justified by each individual’s monadic right not to be assaulted. Magistrates or judges will have special responsibilities to mete out just punishments that are at least partially justified by people’s monadic rights not to be assaulted. And people who make promises will have special promissory
responsibilities that are partially justified by the promisees’ monadic right that the expectations the promisor intentionally created not be disappointed.

An individual’s monadic right, then, is “specifically addressed” when it importantly explains another’s special duty. Dyadic rights and duties arise in the context a special case of this kind of explanatory link. In this special case, the content of the duty that is explained by the right matches the content of the right. In many cases where rights are specifically addressed, this is not so. A police officer’s duty explained by individuals’ right not to be assaulted is to help prevent assault and to investigate cases of alleged assault. These duties are instrumental to seeing to it that assault does not occur; they are not equivalent to avoiding assaulting. Sometimes, however, the content will match. A promisor’s duty to do X is explained by the promisee’s right that the promisor do X. Also, given certain common social arrangements, parents’ duty to provide food to their child is explained by the child’s right that its parents provide it with food.

So, suppose we have a case in which the content of a specifically addressed right matches the content of the duty it explains. That is:

*Suppose* that B’s right that A do X explains A’s duty to do X.

Then the *Specificatory Theory of Dyadic Rights and Duties* says: For individuals A and B, A has a duty to B to do X and, equivalently, B has right against A that A do X, just in case A has a moral power to specify B’s right that A do X or B has a moral power to specify A’s duty that A do X.

Here, the key new idea is that of a power to specify someone’s right or duty. I will explain this idea by focusing on the duty-holder’s power to specify. Ideally and paradigmatically, however, the two parties ought to work out together what ought to be done: I will come back to that.
Parents have a duty to provide their children with food to eat. With nutritious food, I suppose. Especially now, though, with conflicting scientific reports about what is or is not healthy and nutritious, parents are forced to come to their own judgments about what counts as nutritious food. In doing so as part of a conscientious effort to fulfill their duty to feed their child, parents can end up specifying the child’s right—for instance, as a right to nutritious, sugar-free food. And so the child’s life might proceed, legitimately and permissibly, without his ever getting any sugar. Specification can also concern potential undercutting conditions. To take a more traditional case: suppose that A has promised to return B’s pistol by a certain date, but that A is worried about whether he ought to do so, as B has been heard threatening violence against someone. The A might reasonably take these alleged threats to undercut the B’s claim to get the pistol back, and might reasonably decide that he ought to return it only if he could obtain a third party’s credible assurance that B would not immediately use it to murder someone. In so deciding, A is effectively specifying B’s right to getting the pistol back as applying only when it does not appear that he would use it to murder someone.

The importance of this kind of situational judgment is emphasized in many traditions. Aristotle saw this kind of judgment as being the defining feature of the person of practical wisdom—the phronimos. Heideggerian phenomenology emphasizes that we operate on the basis of practical skills that cannot be made fully explicit. When we do use our skill of judgment to make an aspect of the situation explicit, we importantly change it. And, finally, Confucian ethical thought emphasizes situational judgement, especially when one moral consideration comes up against another, as in the clash between returning the pistol as promised and preventing murder, as well as the conflict bringing a sheep-stealer to justice and being loyal to one’s father. The Specificatory Theory of rights emphasizes that holders of dyadic duties are both burdened
and empowered. They are burdened by a special responsibility, explained by another’s right; and as part of that, they are specially empowered to specify the content of the other’s right.

H.L.A. Hart explicated the importance of the powers of control that the Will Theory sees as being essential to dyadic rights by reference to a substantive ideal about the nature of right-holders. As summed up in his famous formula, this is that “the individual who has the right is a small-scale sovereign to whom the duty is owed.” This is not the idea behind the Specificatory Theory. Instead, focusing on the duty-holder’s side, the Specificatory Theory’s competing is the following: as a specific addressee of the relevant right, the duty-holder has been placed in the position of having intelligently to carry out a moral responsibility vis-à-vis some particular person.

To further explain this idea of the importance of intelligently fulfilling one’s moral responsibilities, I would like to introduce an idea that I call “the participant conception of rules.” This conception denies the dichotomy or “dualism” that is central to John Rawls’s early account of rule utilitarianism in “Two Concepts of Rules.” That essay influentially developed the idea of moves within the rules of a practice, using examples such as that of shooting a free throw in basketball—an action that cannot be described without drawing on the rules of the game. This idea helped Rawls ground a distinction between (a) the largely past-oriented perspective of persons within a practice, who might ask by reference to the rules of the relevant practice why a player was called out or a person was put in jail and (b) the largely future-oriented perspective of someone establishing or legislating a practice, who might ask a question such as whether three-point shots should be allowed or whether the death penalty should be dropped. The participant conception, in resisting this dichotomy, asks us to focus on practical (so, future-oriented) but particular questions faced by this or that individual about how he or she ought to act. In being
called upon to face such questions intelligently, individuals are called upon not to take the given contours of our moral practice as being beyond question. Their responsibilities are responsibilities to try do the right thing; but, importantly, as we have seen, it is often difficult for them to figure out what the right thing to do is and that because of conflicts among competing moral considerations. By focusing on the perspective of the intelligent participant in the practice, we thus overcome the dichotomy between the perspective of those within the practice, simply following its rules, and the perspective of the rule-makers of the practice, however they might be. The Specificatory Theory of rights sees the holders of dyadic rights and duties and intelligent participants in moral practice.

Because the Specificatory Theory invokes the essentially dyadic idea of moral powers, just as the Will Theory does, it can explain truly dyadic rights and duties. Yet because it is sufficient, according to the Specificatory Theory, that the duty-holder have the relevant moral powers, this theory is not subject to the counterexamples faced by the Will Theory, involving morally non-competent agents. And because the Specificatory Theory rests on the deep and resonant idea of the intelligent moral agent, seen as a participant in the system of moral rules, it has a basis for intelligible explanation that is at least as powerful and attractive as Hart’s appeal to the idea of each individual as being a “small-scale sovereign.”

Hart’s conception of a “small-scale sovereign” is that of an individual who can, at will, exercise control over another by deciding, for instance, whether or not to waive his right that another stay off of his land. The Specificatory Theory also involves a kind of authority, the authority to specify; but this authority is the indirect by-product of the effort intelligently to do the right thing. Because it is so difficult, in many cases, to figure out what the right thing is—
and perhaps even objectively indeterminate what it is—the intelligent moral agent is unavoidably put in the position of exercising interpretive or hermeneutic authority.

Building upon that idea, I will now close by answering Thompson’s challenge about the unity of the moral community.

Answering Thompson’s Challenge

Thompson’s challenge, you will recall, can be posed in the form of a question: *How can all persons be united via one set of dyadic normative relations into a single moral community?* Last time, I explained the reasons for thinking that the three alternative answers to this question that Thompson considers—Humean, Aristotelian, and Kantian answers—all fail.

The Humean appeal to social conventions fail because, on this view, the basis of authority for a set of conventions—its rulemakers, as it were—are local to this or that human community, bounded in time and space. Accordingly, this Humean basis is too localized to explain how there can be one, universal moral community.

The Aristotelian and Kantian answers each appeal to universal characteristics of individual human beings. In doing so, they appear to have some hope of explaining the moral community’s universality. The Aristotelian appeal to human nature, however, in effect comes down to the idea that this or that individual can be “defective” in some way—perhaps because he lacks an effective sense of justice. That, as I explained in the last lecture, is a monadic feature of this individual. Yet, as we have seen more fully today with the case of the Interest Theory, the dyadic rights and duties and knit together the moral community cannot be explained on the basis of monadic concepts.
The Kantian theory postulates the presence of practical reason in all individuals—or all individuals possessed of “humanity,” at least. Kant further asserts that the form of practical reason, present in each of us, contains within it the kind of dyadic moral ideas that are unfolded in juridical and ethical duties. This appeal to a metaphysical—a priori—conception of the faculty of reason is an example of a kind of magical thinking. This is all too easy to say, and very difficult to establish or believe.

The Specificatory Theory of rights, understood in connection with the participant conception of rules, offers another, more promising way of answering Thompson’s challenge.

Unlike the Humean view, which sharply distinguishes the law-making or convention-making stage from the law-applying or convention-applying stage, the participant conception, as I have argued, offers us a way to overcome that dichotomy. Drawing on the participant conception, the Specificatory Theory holds, parties linked together by dyadic rights and duties are authorized to work out intelligently—whether severally or jointly—how best to do what morality demands of them. The authority invoked by the Specificatory Theory is not crystallized in a moment in time and space, but is ongoing, decentered, and dispersed.

Unlike the Aristotelian view, the Specificatory Theory does not appeal to universally shared monadic features of individuals. Instead, it attributes a moral power of specification—a dyadic power of hermeneutic practical judgment—to each individual. Accordingly, the type of practical intelligence to which the Specificatory Theory appeals can explain the dyadic fabric of the moral community.

Finally, unlike in the Kantian view, this practical intelligence is not postulated as an a priori and uniform feature of all rational beings. Instead, on the Specificatory Theory, it is explained by reference to contingent social practices and institutions. These contingent social
forms sometimes put individuals in the position of having to exercise intelligent practical judgment. Again, though, whereas the Human appeal to social conventions seems to place the authoritative establishment of a system of rules irrevocably in the past, the Specificatory Theory views the intelligent elaboration of the rules as an ongoing project in which individuals with special responsibilities are authorized to play a part.

In the last lecture, I mentioned Thompson’s point that similar—or even identical—content does not suffice to make two different normative systems into one. I mentioned his example of Turkish law, which at one point adopted the rules of civil procedure from the Swiss canton of Neuchâtel. Dramatizing this point, to drive home his argument against the Humean view of what might unite the moral community, Thompson asks us to imagine members of two different nations situated, in the time of the ancient Roman empire, on two different sides of the Alps. He calls these nations the “Lombards”—the name of a real tribe—and the “Schlombards”—a made up name. Suppose, he says, that these two nations have systems of contract law that are identical in content. And suppose a Lombard meets a Schlombard in a town in a high mountain pass. Because the Lombards and Schlombards are so similar, neither person will be able to tell which nation the other is from. Suppose, further, that they negotiate a contract for one of them to sell some goats to the other. Is there one system of law by which they are bound to honor this contract? “No” is the Humean answer. That answer is inevitable, because, on a Humean view, neither of these individuals has any normative authority.

Let us modify this case so that, instead of involving the law, it involves the moral obligation of keeping promises. And suppose that the social conventions of promise-making have independently evolved in Lombardy and Schlombardy so that they are, if not identical in content, at least highly similar. In that case, because the two individuals cannot tell which
person is from which culture—the cultures more generally being so similar—the Specificatory Theory holds that each should do as they normally do, which is to attempt to work out with the other a reasonable way of specifying the duty or right in question. When they do so, they will provide a basis for knitting each other together via correlative rights and duties. This Lombard and this Schlombard will have begun, normatively, to knit together Lombardy and Schlombardy. In this way, the Specificatory Theory of rights, together with the supporting idea of the participant conception of rules, answers Thompson’s question of how all persons can be united via one set of dyadic normative relations into a single moral community. What unites them is the dispersed and decentered authority that each person has as a member of the moral community to intelligently rethink his or her moral rights and duties.

4 See T. M. Scanlon, What We Owe To Each Other (Cambridge: Harvard University Press, 1998), 304.
5 This does not imply that the promisee’s right could not be explained by the promisor’s duty.
7 I see no obstacle to allowing that there might be responsibilities of this kind that one owes to oneself.
10 I here am referring to the Humean view as it is described by Thompson. As Geoffrey Sayre-McCord has emphasized to me, Hume’s own view is more supple and interesting than this.
12 To each morally competent individual. I have not had space in this lecture to focus on this nuance.