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Title: On the Applicability of Evolutionary Anthropology in Legal and Moral Philosophy

Abstract: The paper aims at assessing the relevance of evolutionary anthropology, i.e., a view of human nature reconstructed mainly on the basis of evolutionary psychology (but also behavioural ecology and sociobiology) for the problems analyzed within moral and legal philosophy. It is argued that evolutionary anthropology can be used fruitfully in the analysis of some of questions of legal philosophy, and much less so in the analysis of the questions of moral philosophy. The underlying assumption of this claim is that the primary object of moral assessment are motives rather than ‘external’ actions, and the primary object of legal assessment are ‘external’ actions rather than motives. Given this assumption, it is argued, *inter alia*, that evolutionary anthropology can be helpful in answering the question (with important implications for legal philosophy) whether *homo sapiens* is *homo legalis*, but not the question (with important implications for moral philosophy) of whether *homo sapiens* is *homo moralis*. The claim about a very limited relevance of evolutionary anthropology for moral philosophy is strengthened by showing that evolutionary anthropology cannot help in deciding issues belonging to other than moral psychology branches of moral philosophy, namely to normative ethics and metaethics; and the claim about that evolutionary anthropology is more relevant for legal philosophy is strengthened by showing that it can be applied also in the analysis of more practical questions of legal philosophy (e.g., connected with the problem of susceptibility of human behaviors to shaping by means of legal sanctions).

Keywords: evolution, human nature, motivation, metaethics.

On the Applicability of Evolutionary Anthropology in Legal and Moral Philosophy

1. Introduction: what is evolutionary anthropology?

The present essay aims at defending the claim that evolutionary anthropology is more relevant for legal philosophy than for moral philosophy, i.e., can be more gainfully invoked when tackling some important problems of legal philosophy than those of moral philosophy. We do not suggest that evolutionary anthropology is a true one; we propose to explore the implications of evolutionary anthropology for legal and moral philosophy without deciding the problem of the truthfulness of evolutionary anthropology. Let us first clarify what we shall exactly mean by an ‘evolutionary anthropology’. Briefly, it shall be construed as a nontrivial view of human nature based on Darwinian evolutionary theory. By ‘a nontrivial view of human nature’ we shall mean a view that says more specific things about human things than the clichés of the type: ‘there is no fundamental gap between human beings and other animals’ or ‘*homo sapiens* came into being as a result of the same evolutionary mechanisms that led to the emergence of non-human animals’. Now, one can argue that such views are provided by various (as they are called) ‘evolutionary perspectives’ on human nature (Laland, Brown 2001): evolutionary psychology, behavioural ecology, sociobiology, or gene-culture co-evolutionary theory. The plural noun ‘views’ is pertinent here, because these four perspectives (especially the three first ones as opposed to gene-culture co-evolutionary theory) provide views of human nature which are divergent in some important points. In the following considerations by ‘evolutionary anthropology’ we shall understand anthropology built mainly upon evolutionary psychology. The purpose of the following analyses can therefore be stated more precisely as an attempt to answer the question about the relevance of the view of human nature implied by evolutionary psychology for the important problems of legal and moral philosophy. There are at least three arguments for choosing evolutionary psychology as a basis for reconstructing an evolutionary anthropology. First, differences between evolutionary psychology, sociobiology and behavioural ecology are not really profound: all these perspectives share an important assumption about the crucial role of evolutionary mechanisms in shaping human behavior; in other words, they assume that many patterns of human behaviour are biological adaptations. Thus, as it seems, the evolutionary view of human nature based on evolutionary psychology can be to a large extent reconciled

with the view of human nature implied by sociobiology and behavioural ecology¹. Second, evolutionary psychology seems to be the most developed perspective from among these three perspectives. Third, arguably, only the view of human nature implied by these three perspectives can be in the strict sense called ‘evolutionary anthropology’, as it implies that many human behavioural patterns have been shaped by natural selection. The view of human nature implied by gene-culture co-evolutionary theory assigns an important role to non-biological factors in shaping our behaviours, so that it may seem dubious whether it can at all be dubbed ‘evolutionary’ (in the strict biological sense).

Let us now pass on to a short presentation of the main assumption of evolutionary psychology (Tooby, Cosmides 2005), and thereby of what we have called ‘evolutionary anthropology’. Its main assumption says that the human mind is not a blank slate – *tabula rasa* – upon which everything has to be written by environmental and cultural factors and can be written with equal ease: it is composed of built-in psychological dispositions – computational modules – shaped by natural selection which play a crucial role in shaping our behaviours. Thus, according to evolutionary psychology, the human mind consists of innate computational modules – psychological dispositions – and these modules are evolutionary adaptations, i.e., their presence can be accounted for by the fact that they enabled our ancestors to best cope with the problems they encountered in the ancestral environment² and thereby increased on average their chances of survival and reproductive success. What is important in the context of our further considerations is that evolutionary psychology implies (relying on such evolutionary theories as, e.g., a theory of kin selection, a theory of reciprocal altruism, primatology, and evolutionary game theory) that our pre-dispositions to behave morally (i.e., to take altruistic actions) are the products of evolutionary mechanisms. It must be admitted, though, that evolutionary psychology does not make precise what the *content* of our natural moral dispositions is. Accordingly, it is compatible with various more specific views. Before we present two main views of this kind, let us define three forms of altruism, namely, kin altruism, reciprocal altruism and pure altruism. In the case of kin altruism an agent sustains high costs for the good of a relative without expecting the return of these costs in the future. In the case of reciprocal altruism an agent sustains high costs for the good of an unrelated person expecting the return of these costs in the future. It should be stressed that

¹ The main difference between evolutionary psychology and sociobiology on one part, and behavioral ecology on the other, is that behavioural ecology more strongly emphasizes the fact that these behavioural patterns may take various forms depending on the environment in which they manifest themselves

² These problems concerned in general survival and reproduction, and in particular, for example, finding mates, succeeding in intra-sexual competition, ensuring the certainty of paternity, deterring the adultery of one’s sexual partner, detecting cheats in social exchange interactions.

reciprocal altruism may take not only the form in which the return from the beneficent act is expected from the actual recipient of the benefits, but also a form in which the return from the beneficent act is expected from a different person than the actual recipient of the benefits – from those who witnessed or otherwise were informed about the beneficent act (Richard D. Alexander (1987) calls the former form of reciprocal altruism ‘direct reciprocity’ and the latter form ‘indirect reciprocity’³). In the case of pure altruism an agent sustains high costs for the good of an unrelated person without expecting the return of these costs in the future. Now, relying on these three forms of altruism, one can distinguish two varieties of the view saying that human beings are pre-disposed to behave morally. The first variety says that human beings are *narrowly altruistic*, that is, they tend to manifest in many circumstances kin altruism and reciprocal altruism. The second variety says that human beings are *genuinely moral*, that is, they tend they tend to manifest in many circumstances kin altruism, reciprocal altruism and pure altruism. Most evolutionary biologists claim that evolution has not endowed us with the tendency to engage in purely altruistic acts: they maintain that such acts are just the maladaptive side-effects of kin altruism and reciprocal altruism. However, some scholars defend the claim that evolution has endowed us with such a tendency. They argue either that such a tendency is a product of sexual selection or that it is a product of group selection. According to the former explanation, the tendency to undertake purely altruistic acts may have evolved, even though it decreased the probability of survival of those who manifested it, if this tendency was for some reason attractive for the opposite sex and thereby increased the probability of mating and reproductive success. According to the latter explanation, genetic group selection may have favoured the tendency to undertake purely altruistic acts, the reason being that groups with many individuals endowed with this tendency and thereby inclined to sacrifice themselves for the group to which they belong are likely to fare better than and win over groups with individuals endowed only with the tendency to display kin altruism and reciprocal altruism. In sum, evolutionary anthropology does not say clearly if we are only kin and reciprocal altruists, or also pure altruists.

³ Cf. the following quotation: “... returns from indirect reciprocity may take at least three major forms: (1) the beneficent individual may later be engaged in profitable reciprocal interactions by individuals who have observed his behaviour in directly reciprocal interactions and judged him to be potentially rewarding interactant (his “reputation” or “status” is enhanced, to his ultimate benefit); (2) the beneficent individual may be rewarded with direct compensation from all or part of the group (such as with money or a medal or social elevation as a hero) which, in turn, increases his likelihood of (and that of his relatives) receiving additional perquisites; or (3) the beneficent individual may be rewarded by simply having the success of the group within which he behaved beneficently contribute to the success of his own descendants and collateral relatives (Alexander 1987, p. 94)”. The idea of indirect reciprocity was in fact already hinted at by Robert Trivers (1971), who called this form of reciprocity ‘generalized reciprocity’. However, it was worked out in detail by Richard D. Alexander (1987).

2. The meaning of evolutionary anthropology for moral and legal philosophy

The basic claim of this essay, namely, that evolutionary anthropology is less relevant for moral philosophy than for legal philosophy, is based on a certain understanding of morality and law. According to this understanding (contrary, e.g., to consequentialist ethical doctrines), the object of moral judgments are in the first place motives of agents, and the object of legal judgments are in the first place acts of agents. Consequently, in order to resolve two parallel problems (one related to moral philosophy, the other related to legal philosophy), namely, whether *homo sapiens* is (statistically) *homo moralis*, and whether *homo sapiens* is (statistically) *homo legalis*, we are compelled, respectively, to probe into the questions of whether human beings are disposed to act on moral motives, and of whether human beings are disposed to behave morally (assuming that law deals with moral acts, we therefore narrow down our considerations to legal rules constituting Hart's minimal content of natural law, i.e., rules which prohibit morally reprehensible acts directed against such basic human goods as life, bodily integrity or property; law understood in this way can be viewed as a device for promoting cooperative behavior). This linguistic convention is concordant with Stoic-Kantian distinction between morality and legality of acts, the former concerning their 'depth', i.e., motives standing behind them, the latter concerning their 'surface', i.e., their external form. In the following considerations by 'moral motives' we shall understand all of the following three types of motives: (a) Kantian motives, i.e., willingness to take a moral action just because it is a moral action; (b) altruistic motives, i.e., willingness to promote other person's interests (regardless of whether this leads to an infringement of one's interests, as in the case of purely altruistic actions, or not, as in the case of reciprocally altruistic actions); (c) emotional motives, i.e., being moved by certain moral emotions.

2.1. Evolutionary anthropology and legal philosophy

We shall first focus the problem of whether *homo sapiens* is *homo legalis*. This problem can be viewed as belonging to a (largely unexplored) branch of legal philosophy which one may call 'legal psychology' or 'legal anthropology'. As mentioned before, evolutionary anthropology asserts that human beings have been equipped by natural selection with certain pre-dispositions to behave morally (i.e., in an altruistic and cooperative way). It can therefore be said that according to evolutionary anthropology human beings can be

justifiably regarded as *homines legales*, i.e., as having predispositions to *act* morally. This claim can be supported by common-sense observations, e.g., the observation that a predominant part of the population does not commit crimes, and more than half of all committed crimes are due to notorious criminals. Clearly, such observations can be also accounted for in a different way; one can, e.g., maintain that they can be explained by fear of punishment rather than by in-built dispositions to act morally; accordingly, we do not insist that the former explanation is a better one: we only claim that this explanation is provided by evolutionary anthropology.⁴ The question of whether human beings are (statistically) *homines legales* is, arguably, ‘intrinsically’ interesting, though, as may be noticed, it is not a specifically legal-philosophical question. This objection, if apt, is apt only *to a certain extent*, because, arguably, the above question is strictly connected with more typically legal-philosophical questions, e.g., the question about the origins of law, and the question about the nature of law. The controversies connected with the former question are focused on the problem whether law could have emerged spontaneously, whereas the controversies connected with the latter question are focused on the problem whether the core of law is an ‘expression’ of human nature or, rather, a tool for counteracting human nature (Zaluski 2009). Let us devote some attention to the latter problem. Evolutionary anthropology strongly suggests that the core of law is an ‘expression’ of human nature in the sense that human beings are biologically predisposed to act spontaneously in accordance with legal rules constituting this core, i.e., they are endowed with dispositions whose socio-cultural correlates are these rules. But, of course, this core is something more than just an expression of these dispositions: it is also a mechanism for reinforcing those – biologically embedded but nonetheless fragile – dispositions. The problem of the nature of law can also be analyzed from the standpoint of evolutionary anthropology at a more concrete level: one can attempt to show that specific legal institutions (e.g., private property, contract or punishment) are deeply embedded in our biological construction. It should also be noted that, beside those legal-philosophical implications, evolutionary anthropology has also practical implications regarding law, as it can be used to assess potential effectiveness of various legal regulations in realizing the goals for which they have been enacted. It seems worthwhile devoting some attention to this kind of application of evolutionary anthropology in legal analysis. It is clear

⁴ It is worth noting that in fact one can distinguish at least two different understandings of the concept of ‘*homo legalis*’: in one sense (assumed in this paper) *homo legalis* is a person disposed to behave morally owing to her innate cooperative and altruistic predispositions to behave in this way; in another sense, *homo legalis* is a person disposed to behave morally not owing to her innate cooperative and altruistic predispositions to behave in this way (because she lacks thereof), but because of her fear of punishment. Let us repeat: evolutionary anthropology seems to justify the claim that human beings are (statistically) *homines legales* in the first sense.

that law achieves its goals (whatever they are) indirectly, i.e., through affecting human behaviour. Consequently, if the legislator does not have a robust model of human behaviour, and, consequently, does not know how people will react to competing legal regulations from among which she has to choose, she will not know how to make this choice or she may choose regulations which, owing to their inadequacy to human nature, generate high social costs. Now, according to Owen D. Jones (Jones, Goldsmith 2005, Jones 1997, Jones 2005) evolutionary theory (and, especially, evolutionary psychology) helps us understand if and to what degree given behavioural tendencies are hard-wired into human nature, and thereby to determine what incentives are necessary to restrain these tendencies or to channel them into cooperative behaviour. He has formulated a law, which he calls the ‘law of law’s leverage’: the law is a conceptual tool inspired by evolutionary psychology to assess the comparative effectiveness of legal regulations.⁵ The law says, roughly, that decreasing the frequency of behaviours by means of legal sanctions will be the more difficult (i.e., it will require higher sanctions), the more these behaviours tended in ancestral environments to increase the inclusive fitness of those who manifested them. As Jones and Goldsmith put it, the law “can help us predict and explain the general features of the aggregated demand curves for different behaviors, and thereby helps us understand why some behaviors are less easily manipulated by law than are others (Jones, Goldsmith 2005, p. 461)”. Jones notes that even though the law of law’s leverage cannot predict demand curves for law-relevant behaviours with precision, nor can it individualize a curve to a single person, it can offer general and useful insights into the ways law interacts with various behaviours. According to this law, e.g., the slope of demand curve for adulterous behaviour will be comparatively steep and thus comparatively insensitive to legal sanctions (because, as evolutionary psychology teaches us, human beings are by nature moderately polygamous); the slope of the demand curve for jealous violence against potential rivals and partners will be much steeper for men than for women (because, as evolutionary psychology teaches us, male sexual jealousy is a biological adaptation). We deem it necessary to end the presentation of Jones’s views with a sceptical note: Jones’s optimism about the usefulness of evolutionary anthropology in legislation is assuredly precocious for at least two reasons; first, at the present level of its development evolutionary anthropology can hardly provide any precise guidance for a legislator, beyond certain banalities of the sort “it is impossible to eliminate by means of law certain undesirable human

⁵ The name of this law is connected with the assumption that law exists to effect changes in human behaviour, thus being a kind of lever for moving human behaviour that “depends on a behavioural model as a lever depends on a fulcrum (Jones 1997, p. 167)”. Cf. also Jones 2004.

dispositions, e.g., sexual jealousy, as they are deeply embedded in our nature” or admittedly controversial proposals (e.g., a proposal concerning a special supervision of stepparents, which is based on the evolutionary discovery that stepparents are much more likely, though ‘absolutely’ still very unlikely, to commit child abuse or infanticide than biological parents); second, and more fundamentally, it is by no means that the basic assumptions of evolutionary anthropology are true.⁶

Let us summarize. The above argumentation was aimed to show that evolutionary anthropology can be relevant for legal philosophy, as it, first, enables one to answer the question whether *homo sapiens* is *homo legalis*, and thereby is helpful in tackling the legal-philosophical problems connected with this question, namely, problems of the origins of law and the nature of law, and, second, it can be used (though probably not in a very illuminating way at its present level of development) to evaluate the elasticity of human behaviour and thereby to improve the quality of legislation. One may object, however, that this kind of contribution of evolutionary anthropology to legal philosophy is rather modest. We are inclined to agree with this objection: our claim was not that evolutionary anthropology is an indispensable tool for a legal philosopher, but, rather, that it can shed light on some important problems of legal philosophy, and does not shed any light whatsoever on a number of its other important problems. Especially, evolutionary anthropology *cannot* serve as a basis for constructing some new version of natural law theory: to believe that it can would be, of course, to commit the ‘naturalistic fallacy’ (there is a parallel problem in moral philosophy – that of building a normative ethics on the basis of evolutionary anthropology; we shall return to this problem in the next section).

2.2. Evolutionary anthropology and moral philosophy

We shall now pass on to an analysis of the relevance of evolutionary anthropology for moral philosophy, starting with moral psychology – arguably one of its branches. Moral psychology aims at answering the question of whether human beings are *homines morales* (i.e., have in-built pre-dispositions to be *motivated* morally) or not⁷. There are no doubts that moral acts exist (in fact, as was mentioned in previous sections, according to evolutionary

⁶ Other critical remarks on this kind of application of evolutionary anthropology in law can be found in Brian Leiter and Michael Weisberg 2010.

⁷ If they are not *homines morales*, then they can be non-moral, i.e., have neither in-built pre-dispositions to be motivated morally nor in-built pre-dispositions to be motivated a-morally, or they can be immoral, i.e., have in-built pre-dispositions to be motivated immorally – egoistically or maliciously

anthropology, they should be widespread), but there are serious doubts regarding the frequency of moral acts done out of moral motives (it is clear that non-moral motives may effectively mimic moral motives, i.e., issue in the same acts). One can, roughly, distinguish three views of the relations between moral action and moral motivation:

View 1: Moral acts *always* flow from moral motives.

View 2: Moral acts *always* flow from immoral motives. The best known version of *View 2* is psychological egoism, which asserts that each agent's actions can *always* be plausibly construed as motivated, consciously or unconsciously, by her own self-interest. On this view, morality is a mirage: 'externally' moral acts are always moved by essentially egoistic motives.

View 3: Some moral acts flow from moral motives, some moral acts flow from immoral motives. This view has two essentially different variants: in its optimistic variant it says that most moral acts flow from moral motives, in its pessimistic variant it says that most moral acts flow from immoral motives.

Now, the problem is that evolutionary anthropology does not enable one to decide between these views, as it does not offer *any* theory of human motivation. It is true that some attempts have been made to appeal to evolutionary theory in order to justify *View 2*, which is in fact a stronger variant of *View 3* in its pessimistic variant, but these attempts, in our view, are unsuccessful – they seem to reflect personal views of human nature of its proponents and have no cogent evolutionary justification. Let us analyze two main evolutionary arguments that have been advanced in favour of this view. The first argument says that since our evolved dispositions serve the interests of our genes, one can say that 'ultimately' all our moral actions are motivated egoistically – they are intended to serve the interests of our genes. This argument is based on a naïve – literal – reading of the selfish 'gene metaphor': it boils to a fallacious reasoning that since we are our genes, and genes are selfish, we are selfish, even if we seem to be altruistic. The argument is doubly fallacious – materially incorrect and based on equivocation – since we are neither our genes nor genes are selfish in the sense in which we may be selfish. Thus, this argument conflates two different levels of analysis: the level of the origins of our moral dispositions and the level of motivation standing behind our moral acts. The fact that our moral dispositions are biological adaptations (i.e., serve in the long run the 'interests' of our genes) does not *ipso facto* mean that our moral acts are motivated by our willingness – conscious or unconscious of promoting our genetic interests. The second

argument says that psychological egoism, hypocrisy, and various cheating strategies are often involved in the relations of direct and indirect reciprocal altruism, and since it is a dominant form of altruism, we are in fact egoists.⁸ In point of fact, reciprocal altruism is indeed often a sophisticated form of egoism. This is so when a person engages in reciprocal exchanges with the goal of promoting *her* own interest. In such a case, that person's motivation is undeniably egoistic. It is also true that agents involved in relations of reciprocal altruism often cheat – in a gross or subtle way⁹ – their partners with a view to maximizing their own benefits from these relations. However, there is nothing in relations of reciprocal altruism by virtue of which they must predominantly involve egoistic motivation and be tainted with cheating and hypocrisy: they can be motivated by positive emotions (e.g., gratitude) or by a sense of duty rather than by an expectation of promoting one's own interests. The above critique of the evolutionary arguments in favour of *View 2* does not, of course, mean that this view is incorrect. In point of fact, the controversy over the plausibility of this view is not easily decidable because psychological egoism is an unfalsifiable theory; nevertheless one can adduce good reasons to reject psychological egoism as a plausible theory of human motivation. Psychological egoism can be criticized on the empirical grounds that people often act in a manner that can hardly be called self-interested: they jeopardize their lives, health, or well-being for the sake of others; and to try to find egoistic motives behind such acts would be a highly artificial strategy. An adherent of psychological egoism can advance the counter-argument that each agent's *prima facie* altruistic actions are in fact self-interested in the sense that whatever the agent does, *she is always merely doing what she most wants to do*, i.e. what she is sufficiently motivated to do. However, should this counter-argument be accepted, psychological egoism would cease to be a bold hypothesis about agents' motivation but, rather, would become an unfalsifiable statement deprived of any interesting content, as it would imply that each agent is selfish in the trivial sense that her motives are *hers and not someone else's*, or in other words, that she maximizes *her* utility function, which is obvious given that *she*, and not someone else, is the subject of *her* actions. Thus, this counter-argument renders psychological egoism tautological. More interesting, though arguably also

⁸ This view of human motivation has been defended by many evolutionary psychologists (cf. Alexander 1987, Ghiselin 1974, Wright 1996); the following famous quotation summarizes well this view: „Scratch an altruist and watch a hypocrite bleed (Ghiselin 1974, p. 247)”. This view was developed in greatest detail by Richard D. Alexander (1987) who applied his theory of indirect reciprocity to demonstrate that even apparently most disinterested human acts are motivated by an expectation of return benefits.

⁹ The distinction between gross and subtle cheating has been introduced by Trivers (1971); in the case of gross cheating, one of the partners does not reciprocate or reciprocates so little that her partner's net gain from the relation is negative; in the case of subtle cheating both partners reciprocate but one reciprocates less than the other.

unfalsifiable and overall implausible, versions of psychological egoism were proposed by some moral philosophers, e.g., by Hobbes and La Rochefoucauld. Hobbes maintained (anticipating Nietzsche's moral psychology) that most instances of an agent's moral behaviors are motivated by her expectation of the rise of her sense of power. Thus, for example, an agent's charitable behaviour would be motivated by her expectation of delight she will have in demonstrating (to himself and to the world) her superiority over the person towards whom this behaviour is directed. Pity for a person stricken with misfortunes, in turn, would stem from awareness that the same things might happen to us and undermine our sense of power. This hypothesis is interesting yet implausible since it can hardly be maintained that it applies to every moral act. La Rochefoucauld, in turn, expended a lot of effort to show that all human actions, even apparently most disinterested ones, are propelled by *amour-propre*, i.e., a desire for self-esteem and for esteem. According to La Rochefoucauld, then, the basic spring of our actions is not egoism in the narrow sense, i.e., care for material goods but a different immoral motive – *amour-propre*¹⁰. His theory is not trivial and not uninteresting (quite the contrary: he gives a detailed and illuminating description of various incarnations of *amour-propre*), but unfalsifiable (if you have sufficient imagination you shall 'discern' *amour-propre* under the cover of all human actions, e.g., you may argue that the peak of *amour-propre* is to strive to suppress in oneself *amour-propre*) and overall implausible. In sum, psychological egoism does not seem a convincing account of human motivation.

Let us pass on to more general remarks. It seems that the problem of human motivation is exceedingly complex to fall within the reach of the conceptual tools of evolutionary theory. It owes its complexity to the fact that human beings are endowed with a wide gamut of divergent interests that may become involved in their motivation and with the capacity for abstract thinking and self-reflection that additionally enriches this motivation. Thus, for example, human emotions and empathy manifest a much higher level of complexity (e.g. are multi-layered and entangled in various mechanisms of self-deception and 'transmutations' (Elster 1999)) than is assumed in evolutionary analyses. Accordingly, even if we assumed that evolutionary theory shows that natural selection had endowed us only with moral emotions (and therefore not negative ones) and with empathy as motives of our moral acts, it would not *ipso facto* mean that motives standing behind moral acts are moral ones. In summary, one may hypothesize that human motivation is one of those moral-philosophical

¹⁰ Though, in some of his maxims, e.g., those about respecting justice or friendship, he seems to treat care for egoism as an element of *amour-propre*; *amour-propre* could therefore be seen as care for self-interest in a more general sense, embracing not only one's material interest but also less tangible one.

problems that lie, not for fundamental but practical reasons (i.e., because of the enormous complexity of human motivation), beyond the reach of evolutionary anthropology: it does not have the theoretical potential that would enable one to analyze either at a general level (i.e., when trying to say in general whether human beings exhibit moral motivation) or at a concrete level (i.e., when trying to identify a motivation of a concrete individual) the problem of human motivation.¹¹ To return to the three views on the relations between moral acts and moral motives: it seems that we can only appeal to common-sense psychological wisdom to decide between these views: this wisdom teaches that *View 1* and *View 2* are not plausible and that it is not clear which variant of the *View 3* is more plausible,

The foregoing considerations are not sufficient to substantiate the claim that evolutionary anthropology is of little relevance for moral philosophy. They must be supplemented by arguments for the claim that evolutionary anthropology offers little aid in the analysis of questions belonging to other than moral psychology branches of moral philosophy, namely to normative ethics and metaethics. We shall not deal at greater length with normative ethics, confining ourselves to a simple observation that evolutionary theory cannot be appealed to when dealing with the questions of this branch of moral philosophy without committing the ‘naturalistic fallacy’. But some philosophers argue that evolutionary theory can be gainfully used to tackle one of the basic questions of metaethics – the question about the logical status of moral statements. We do not share this opinion and shall now say why. The point of departure of evolutionary metathicists is the assumption that human beings have become endowed by natural selection with dispositions to act morally, and that thereby one can provide a plausible evolutionary genealogy of many of our moral dispositions. So far so good: this is just the general assumption of evolutionary anthropology. But they also claim that results have implications for the metaethical questions. Painting with a broad brush, one can distinguish three general positions on the implications of evolutionary anthropology for metaethics: the first two positions say that evolutionary theory has important implications for metaethics, the last one, which we shall endorse, says that it has no implications whatsoever for metaethics. *Position 1* asserts that by demonstrating an evolutionary genealogy of a disposition to take a moral act *P* one thereby provides an argument for a realist character of a moral norm prescribing *P*. The metatethical position implied by this view is metaethical naturalism. In order to criticize this position, one can appeal to traditional arguments against moral naturalism, especially ‘the open question argument’; we shall not be expatiating on this

¹¹ The only exception seems to be the claim that kin-altruistic actions (especially, altruistic actions toward one’s progeny, is motivated truly altruistically).

view, because we think that this argument effectively undermines it. *Position 2* asserts that by demonstrating an evolutionary genealogy of a disposition to take a moral act *P* one thereby provides an argument for an anti-realist character of a moral norm prescribing *P*. The argument for this position goes as follows: acting with this norm, besides what it may be beyond that, proves to be a means for achieving an evolutionary success; in consequence, a moral norm is 'debunked' as subservient to an evolutionary goal of transmitting one's genes to further generations. In other words: the knowledge of the causes which lead us to make moral judgments strips those judgments of their mysterious character: they are determined by our evolved dispositions; it is therefore an illusion to believe that morality exists 'out there', independently of our dispositions. There are two main variants of this position: ethical skepticism and emotivism. *Ethical skepticism*, defended by M. Ruse, assumes that there are no moral facts; morality is a product of biological evolution designed to fulfill a specific function: ensure the most effective spread of our genes; moral reality only appears to be objective but this is an illusion (though an expedient one, because the belief that there are no moral facts would undermine its efficiency (Ruse 1986, Ruse 1999, Woolcock 1993, Ryan 1997, Harms 2000, Joyce 2000)). Thus, moral norms say something about reality but what they say is false; more precisely, a belief in objective values is built into our ordinary moral thought and language but this belief is false.¹² *Emotivism* or *moral projectivism* assumes that morality is a projection of our evolved dispositions (Wright 1996). Certain qualities that appear to be 'in the world' are in fact generated by the nature of the perceiver's mental life. Thus, moral attributes seem to be 'in the world' but they in fact appearances: they are caused by our emotional activity. Let us now pass on to the criticisms of this view. *View 2* is intended to refer to all moral systems, so it would be plausible as a general account of a metaethical status of *all moral statements* only if all moral systems could be demonstrated to be rooted in our evolved dispositions. But such demonstration is not feasible for the simple reason that there are incompatible moral systems. Thus, this view cannot be correct with regard to moral systems that set requirements that do not have counterparts in our evolved dispositions (for instance, such exacting moral systems as Christian ethics or Buddhist ethics¹³). This position *might* therefore be plausible only with regard to moral systems that set requirements having counterparts in our evolved dispositions. But it would be plausible with regard to those

¹² This variant is based on J. Mackie's error theory, which is a form of 'anti-realist cognitivism' (Mackie 1991). A view which is similar to ethical skepticism is defended by Richard Joyce (2006); he calls this view *moral factionalism*; it consists of four theses: moral judgments are not in fact true; we may come to know that they are not true; they are nevertheless useful; but they are useful only if we treat them as true in our day-to-day lives.

¹³ The Christian ethics, e.g., prescribes such 'anti-evolutionary' duties as love of one's enemies, not resisting the evil, unconditional forgiving.

systems only if the following three conditions were fulfilled: (i) if evolution equipped us with precisely defined moral dispositions, and thereby did not leave much room for their interpretation, so that moral norms would be *exact socio-cultural correlates* of our evolved dispositions and (in a related way); (ii) if one could not provide other reasons for following these norms than evolutionary ones; (iii) if demonstrating an evolutionary genealogy of an agent's disposition to take a moral act *P* were tantamount to demonstrating that an agent's motive to take this act is to foster his or her evolutionary success. *But none of these premises is fulfilled*: our moral dispositions have a very general and imprecise form; one can with greatest facility adduce non-evolutionary reasons for complying with moral norms; the fact that a given moral disposition has evolutionary origins does not, of course, mean that an agent follows a norm correlated with this disposition because she can find an evolutionary rationale for this norm. Thus, *Position 2* seems entirely unconvincing. *Position 3* asserts that demonstrating an evolutionary genealogy of a disposition to take a moral act *P* has no implications whatsoever for the question about the logical status of a moral norm prescribing *P*. This view, given the above critical arguments against the previously discussed views, seems to be most plausible. In sum, the analysis pursued in this section lead to a more general conclusion that the problems of normative ethics and metaethics lie, for fundamental reasons (i.e., because they are entangled into deeply philosophical issue of one's general outlook of the world), beyond the reach of evolutionary anthropology and natural sciences in general.

3. Concluding remarks

We have defended the claim that evolutionary anthropology has limited relevance for the traditional problems of moral philosophy. It does not help in deciding between various normative moral systems proposed by moral philosophers and between various metaethical views. In other words, after getting acquainted with evolutionary anthropology we can just as legitimately accept all normative moral systems and all metaethical views we were inclined to accept before getting acquainted with this branch of science. Moreover, evolutionary anthropology has little to say about the most interesting problem of moral psychology, i.e., the problem of motivation of our moral actions. It does not mean, of course, that evolutionary anthropology does not contribute anything to moral psychology (e.g., there is very interesting work drawing on evolutionary theory on self-deception or on happiness; cf. Trivers 2011, Haidt 2006). Nonetheless, these are not central problems of moral motivation; and evolutionary anthropology does not offer a clear account of human motivation – the central

problem of moral psychology. We have also defended the claim that evolutionary anthropology may have less limited relevance for legal philosophy. This claim was based on the assumption that while moral philosophy deals above all with human motivation, legal philosophy is focused in the first place on human action. Now, because evolutionary anthropology reveals human behavioural tendencies (even though it sheds little light on motivation standing behind actions that issue from these tendencies), it is highly relevant for a debate about human nature, i.e., the question whether human beings are *homines legales* or not (clearly, if we assumed that moral philosophy deals with actions rather than motivations, our argument for the claim that evolutionary anthropology is less relevant for moral philosophy than for legal philosophy would become much weaker; nonetheless, we believe that, given that moral judgments are focused, at least in everyday moral discourse, on motives rather than mere actions, the primary object of moral psychology is motivation, not action: moral actions, however paradoxical it may *prima facie* sound, are more interesting for legal philosophy than for moral philosophy). As was argued, this question has far-reaching implications for more typically legal-philosophical questions – about the origins and the nature of law (its conventional or natural character). We have also argued (following Jones, though with much less enthusiasm than he does) that evolutionary anthropology could be useful in improving the quality of legislation, as it provides insights into the degree of ‘elasticity’ (i.e. susceptibility to change by means of legal sanctions) of various human behaviours.

We shall conclude analyses with two remarks, the first of them reiterating the assertion already made. So, first, our analyses have been hypothetical in the following sense: we do not assume that evolutionary anthropology as presented above is an apt description of human nature. Such an assumption would be extravagant given various criticisms of evolutionary psychology (aimed, especially, at its basic tenet that many human behavioural patterns are biological adaptations). Our intention was to reflect on the relevance of evolutionary anthropology for moral and legal philosophy without deciding whether this anthropology is true or false. Second, the problem of relevance of evolutionary anthropology tackled in this paper inscribes itself into a broader problem of the limits of the naturalization of practical (moral and legal) philosophy. We have tried to show that the limits are very twofold: fundamental – in the case of metaethics and normative ethics, and practical – in the case of human motivation.

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