

Socialist Principles of Appropriative Justice

A reply to Husami

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The relationship between Marxism and justice has always been contentious. Interpretations range from Marx as an amoralist who believed that moral norms were always a product of a specific historical mode of social organization, to Marx as a fervent moral opponent of capitalism who believed that capitalist exploitation was inherently unjust. During the 1970s and 1980s this debate reached its fullest development within the movement of Analytical Marxism. Analytical Marxism sought to apply the tools of analytical philosophy to Marxist political philosophy in an attempt to divorce Marxism from the obscurantism of Hegelian philosophy. The obscurantism of Hegelian philosophy was associated with its use of the dialectical method that seemed to violate the formal logic principle of non-contradiction and a highly abstract vocabulary which seemed to obfuscate the concepts being explained. The principle participants in the debate were Allen Wood, Ziyad Husami and Gerald Cohen. Wood took the view that transhistorical moral condemnations of capitalism were inconsistent with Marx's historical conception of morality. Cohen, on the other hand, argued that Marx thought capitalism was unjust but that Marx was not aware that he believed capitalism to be unjust. Finally, Husami defended the view that Marx regarded capitalism as morally condemnable from principles of socialist justice.

In this paper I will focus on the interpretation of Marxian justice by Ziyad Husami. In the well-known paper *Marx on distributive justice* (1978), Ziyad Husami argues, in opposition to Allen Wood and Richard Tucker, that Marx regarded the exploitation of workers by capitalists as unjust. Wood and Tucker read Marx as only condemning economic systems internally, that is to say, according to standards set by the

superstructure and ideology which arise from those economic systems and never from a transepochal point of view. Husami's contention is that capitalist exploitation is unjust because it violates what he interprets as Marx's socialist principle of justice, 'from each according to his ability, to each according to their contribution'. Husami argues that in order to end capitalist exploitation, the private ownership of the means of production must be abolished in favor of state ownership. In this paper I wish to advance three claims against Husami's specific interpretation of Marxian justice. Following and refining Burczak (2003), Ellerman (1992), and Resnik and Wolff (1987), I want to argue that Husami's conception of what DeMartino (2003) calls *appropriative justice* does not fully capture what is unjust about capitalist exploitation. Secondly, I argue that Husami's proposed solution to socialize the means of production will not in fact eliminate exploitation. Lastly, I wish to argue that an alternative socialist project of worker control and *private* (in the sense that capital is owned by individuals and not a collective authority such as the state) ownership of the means of production is desirable not only because it upholds appropriative justice but because it allows for the achievement of what Wood (1979) calls the 'non-moral good' of self-actualization, an idea Marx inherited from Hegel. Wood calls goods such as freedom, self-actualization, and community 'non-moral goods' because they are regarded as good in virtue of their ability to satisfy the "potentialities, needs, and interests of human beings" rather than good because they conform to the precepts of a moral theory (1979, p. 289). Self-actualization, like happiness, is regarded as a non-moral good because it is seen as desirable, in accordance with a certain conception of human nature, even though no moral credit is attached to its pursuit alone.

1. Husami's 'socialist principle of justice'

Husami defends Marx against the charge of amorality by Wood and Tucker, that is to say the view that nothing is *intrinsically* right or wrong. Husami does so by clarifying that in the Marxian sociology of morals the fact that a norm arises or pertains to one historical mode of production does not rule out its use in the evaluation of other historical modes of production (1978, p. 34). Specifically, Husami contends that Marxist principles of justice can be derived from the critical, revolutionary standpoint of proletariat consciousness, which develops its own standards of justice contrary to those of the dominant mode of production, capitalism, and the dominant class in that mode of production, the bourgeoisie. Whether or not Husami is correct in interpreting Marx as being committed to a standard of justice in criticizing capitalism will not be the topic of this paper. I will assume for the purposes of this paper that Husami is correct in deriving his socialist principles of justice from Marx himself. I aim instead to provide an internal critique of Husami. My argument is that given Husami's own principle of socialist justice as derived from Marx, his account of *appropriative justice* fails to locate what is unjust about capitalist exploitation according to that very same principle.

Husami defines exploitation as the "extraction of surplus labor or surplus value from the worker and its appropriation by the capitalist without compensation" (1978, p. 47). I understand appropriation here in the traditional Marxian sense of the word as 'receiving directly into his or her hands' or 'becoming the first title holder of', that is to say claiming a property right on the product (Wolff & Resnik, 2012, p. 155). Husami's definition of exploitation follows, of course, from Marx's well known labor theory of value, whereby the value of a commodity is defined by the amount of labor-time that went into its production. For Marx the amount of labor-time which is needed to reproduce the worker's labor-power in a given day is what determines the wage that the capitalist pays the worker. Specifically, the wage is determined by the labor-time needed to produce the bundle of consumption goods necessary to maintain the worker's labor-power or 'capacity to work' according to the socio-cultural standards of a given historical epoch. Hence it is a subsistence wage, in that the labor-value of the wage is equal

to the labor-values of the commodities needed to ensure the physical and social survival of the worker. For Marx, exploitation follows from the fact that the amount of labor-time which goes into making the product the worker produces is greater than the amount of labor-time which goes into reproducing the worker's labor-power in a given day. The worker is thus robbed of the extra or surplus value created by the surplus labor, which the capitalist appropriates in the form of profit.

Husami proceeds to show how the exploitation occurring in the capitalist system can be viewed as unjust as it violates two fundamental Marxist principles of distributive justice found in Marx's *Critique of the Gotha programme* (1875): the socialist principle 'from each according to his ability to each according to his contribution' and the communist principle 'from each according to his ability to each according to his need'. The crucial point Husami wants to make is that in the just socialist society, workers would receive "consumption goods embodying an amount of labor equal to the amount of labor [they] contributed" (1978, p. 41). That is to say, in a socialist society workers would appropriate the surplus value originally appropriated by the private owners of capital since they no longer receive merely the product of the "necessary labor-time", the exchange-values of the worker's means of labor-power reproduction, but also the product of the labor they expend after producing their means of subsistence (Marx, 1976, p. 325). Crucially, Husami believes that the socialist principle of justice requires the abolition of private property, with the means of production either becoming state property or social property. If exploitation, the appropriation of surplus value by the capitalist who did not share in the process of surplus labor, is a necessary consequence of some individuals having ownership rights to the means of production to the exclusion of others then, for Husami, it follows that ending capitalist exploitation requires the abolition of private property rights in regards to society's capital assets. Husami believes that by abolishing the private ownership of the means of production, socialism represents a marked advance over capitalism for two principal reasons. Most importantly, by socializing the means of production no person can receive an income stream in virtue of the ownership of capital; all people are regarded as workers who receive a share of the total social product (after necessary deductions) equivalent

to the amount of labor-time embodied in the commodities they produce. Secondly, Husami regards the socialization of the means of production as a way in which society can establish rational and collective control over its total social product, by allowing for deductions of the social product on the basis of shared collective needs rather than the private interests of individual capital owners as under capitalism (1978, p. 43).

2. The notion of appropriative justice

DeMartino (2003) distinguishes between three different elements of justice in relation to the social processes of class in his conceptualization of what he terms ‘class justice’: productive justice, appropriative justice, and distributive justice. Following DeMartino, productive justice refers to “the fairness in allocation of the work of producing social surplus”, appropriative justice refers to “fairness in the processes by which some individuals and/or groups in society *receive* the social surplus produced by themselves or others”, and distributive justice to “fairness in the processes by which the social surplus is *distributed* among society’s members for their personal use and in the distributive patterns that emerge from these processes” (2003, pp. 8-9). The three dimensions are clearly overlapping since patterns of justice in appropriation will affect patterns of justice in distribution and vice versa. Nonetheless, the three processes of class justice are conceptually distinct for the reception and the distribution of the product are two different concepts. The distribution of the product occurs *after* the product is received, therefore the two processes are not necessarily linked. In reality, however, the process of receipt usually bears on the process of distribution as well, especially if the appropriators will also serve as the distributors of the product. For the purposes of this current critique I will focus exclusively on the notion of appropriative justice, specifically to show why Husami’s notion of appropriative justice does not fully capture what is unjust about capitalist exploitation.

Following Burczak, I interpret Husami as regarding exploitation to be unjust because “surplus labor and *only* surplus labor is appropriated by someone who did not participate in the production of that surplus” (Burczak, 2006, p. 104). This principle of appropriative justice

can be contrasted with those of Marxists like John Roemer who view exploitation as occurring in the sphere of exchange rather than production. Roemer defines exploitation as “the unequal exchange of labor for goods [whereby] the exchange is unequal when the amount of labor embodied in the goods which the worker can purchase with his income is less than the amount of labor he expended to earn that income” (1985, p. 30). Roemer, for example, would argue that independent commodity producers can be exploited because even though they appropriate the full product of their labor they cannot retain the full value they produce since they have to make payments to land, capital, and credit providers in order to gain access to privately owned means of production (Burczak, 2006, p. 106). Both Husami and Roemer identify the private ownership of the means of production as the locus of capitalist exploitation. In contrast to both of these views, Burczak regards the important question to ask as: “Who is the legitimate appropriator of the whole product, not just the surplus product?” (p. 111). That is to say, who should appropriate all the new assets created in the production processes, as well as the liability (costs) for the used-up productive factors? Whereas Husami’s principle of appropriative justice emphasizes the right of those who produce the surplus product to appropriate it, Burczak and Ellerman emphasize the right of those who produce the *entire product* to appropriate it. Both Husami and Burczak, however, still espouse the idea that the producers of the product (whether surplus or total product) have the appropriating rights. As DeMartino reminds us, however, in addition to the onsite productive and nonproductive workers, numerous other workers beyond the specific enterprise can be said to contribute to the production of the total or surplus product; in essence, production can never be isolated from the constellation of social relations and processes which provide the conditions for its existence. I follow DeMartino then in reconceptualizing Burczak’s principle of appropriative justice in the weaker form whereby “those who directly produce [the total product] *are not excluded* from fair and meaningful participation in appropriation” (DeMartino, 2006, p. 18).

3. Ellerman's conception of appropriative justice

The difference in Husami's principle of appropriative justice stems from the fact that Husami is still committed to the traditional Marxian theory of value whereas Burczak follows Ellerman in replacing the labor theory of value with the 'labor theory of property'. Ellerman defines the 'labor theory of property' as the normative principle that "people should appropriate the positive and negative fruits of their labor" (Ellerman, 1992, p. 25). Positive fruits here refers to the assets created during production and negative fruits to the costs during the same production process. Ellerman eschews talk of surplus value as the source of exploitation since, as he concludes, there is nothing unique about labor as a measure of surplus value which cannot be reformulated in terms of another productive factor, such as a 'spinning-machine theory of value' where "more 'spinning-time'" is extracted than is equivalent to "the day's 'spinning-power'" (Ellerman, 1992, p. 40). 'Spinning-time' here refers to the amount of 'spinning-hours' contained in the textile commodity that is produced. 'The day's spinning-power' refers to the amount of 'spinning-hours' needed to maintain the operation of the spinning-machine for a day. Spinning-hours are thus analogous to labor-values in this example. The injustice of exploitation in Ellerman's labor theory of property arises from the fact that the agents who are responsible for the production of labor's product (the sum of the newly created commodities and the labor services expended to produce them) are not the agents who have the appropriating rights in the capitalist firm. Ellerman employs a specific conception of appropriation in his elaboration of the labor theory of property. In regards to "newly manufactured commodities", appropriation is simply defined as "becoming the first title holder to an asset" while regarding the liabilities employed in the production of commodities, specifically the consumption of labor-power in the capitalist process, appropriation is defined as being the last owner of a property right (Burczak, 2006, p. 104). To give a specific example, an automobile that emerges from a production line has no preexisting property right attached to it; someone must become the first owner of the newly created automobile or it will lie to waste like unpicked apples in an orchard. Likewise, the input liabilities employed in producing an automobile, such as electric power or the worker's labor-power, are extinguished once used in the production process. Therefore the owner of these liabilities is the last owner as electric power and labor-power no longer exist once consumed.

4. Ellerman's Kantian grounding for appropriative justice

The labor theory of property is made into a normative theory by invoking the 'juridical principle of imputation', the principle whereby "people should have the legal responsibility for the positive and negative results of their intentional actions" (Ellerman, 1992, p. 25). Applied to the realm of production, the juridical principle of imputation is transposed into the labor theory of property. For Ellerman responsibility is a property that follows from intentionality and since intentionality can only be assigned to mental states, it follows that only labor, which is the only factor of production that can be assigned mental properties, can be said to be *responsible* for the production of the total output and equally responsible for the labor-power consumed in the production process. Labor is thus responsible both for its positive product, the total output, and the negative product, the labor-power consumed. In Ellerman's perspective, to sell one's labor-power as a commodity, as is the case under capitalism, would be to transfer both responsibility and hence ownership of the positive product (the firm's total product) of one's actions and responsibility and ownership of the negative product of one's actions (the costs incurred in production) to an external agent, the capitalist. It is important to note that when I use the terms 'positive' and 'negative' here I am not making a normative claim that the newly created product is the beneficial aspect of the production while the costs incurred are the non-beneficial aspect of production. I am merely using the words positive and negative to refer to the process of creation and destruction. That is to say, when an asset is created it can be termed a 'positive' act; in contrast, when an input-liability is destroyed or consumed it can be termed a 'negative' act. Through alienating himself from the ownership of his labor-time and from the ownership of his labor-time's product, the worker has been exploited by the capitalist and this exploitation is regarded as unjust because it treats the worker solely as a means and not as an end-in-itself, violating the central Kantian categorical imperative (Ellerman, 1988, p. 1110). The key point to be made here is that the removal of the laborer's legal responsibility (he is no longer legally responsible for the assets or liabilities of his actions) in his employment contract is what renders him a mere thing or tool.

One might object that the Kantian imperative states that people should not be treated *merely* as a means, and that in the production process, although workers are treated as a means, they are also treated as ends-in-themselves. Ellerman states that he is himself not interested in remaining completely faithful to the Kantian imperative so he does not really respond to this charge and instead is satisfied with emphasizing the aspect in which workers are treated as a means. I would argue, however, that the very fact that labor is to be regarded by definition as an input, whose presence or participation is *necessary* for the fulfillment of the ends of the firm, means that all relations with the workers must ultimately be instrumental to the extraction of his labor or at least not interfere with this process. For example, if the owners and managers of a firm are said to treat their workers well or with respect, they only do so insofar as either this treatment advances the role of the worker as a means or at least does not interfere with the process by which the role *qua* tool produces the firm's output. Another possible objection which can readily be claimed by libertarians is that in denying the worker's the ostensibly voluntary act of selling his labor-power he is in fact being treated *merely* as a means. The objection then is that even if the worker is treated as a means *inside* the production process, if we deny him the possibility to let himself be treated as a means inside the production we are consequently treating him as a mere means outside the production process!

Two replies to this objection are possible. First, one can accept that in banning the 'voluntary slavery' that is the wage contract, one is treating the worker as a means to an end of social justice but not *merely* as a means. He is not treated *merely* as a means in the sense that the humanity in the worker is still treated as an end given that after being denied the possibility to sell himself into wage slavery, his capacity to act as a self-directed rational agent is not violated. Secondly, and this follows from the first reason, the Nozick case of voluntary slavery necessarily treats a human being *merely* as a means because in entering the contract he no longer allows the possibility that his humanity is treated as an end. For Kant, our humanity is the collection of features that make us distinctively human, which include the capacities to engage in self-directed rational behavior and to adopt and pursue our own ends. The case of entering into voluntary slavery would violate the Kantian imperative to treat 'the humanity' in human beings as an end itself. A human being who enters into such a contract, even if it was voluntary, is entering

into a position that no *rational* agent can consent to, for a human being who agrees to be treated as a means, or thing, in the production process is agreeing to treat himself in such a way that he cannot exercise his rational capacity to be self-directed and to adopt and pursue his own ends. Furthermore, consenting to become a wage slave would clearly violate what Kant regarded as the primacy of the moral law over self-love for in such a case the rational nature of humanity (which is an end in itself) in the employee is being treated as a mere means to the conditional good of wealth which satisfies the self-love of the employer (Wood, 1999, p. 143).

To summarize, Ellerman's conception of appropriative justice locates the phenomenon of exploitation in the simple fact that under capitalism the person who is causally responsible for the output and input-liabilities of his actions, namely the laborer, is not held to be legally responsible for those same products of his actions. I now turn to Husami's crucial claim that in order to end exploitation it is necessary to abolish the private ownership of the means of production. Although Marx himself believed that only the social ownership of the means of production could bring about the fullest development of society's productive forces and the fullest development of man's *Gattungswesen* (species-being), it is important to note that Marx himself made the distinction between private property *per se* and capitalist private property. Marx contrasts "private property which is personally earned, i.e. which is based as it were on the fusing together of the isolated, independent working individual with the conditions of labor" with capitalist private property characterized by "the exploitation of alien, but formally free labor" (Marx, 1976, p. 928). Nonetheless, Marx believed that private ownership of the means of production would ultimately have to give way to social or state ownership since the productive forces of capitalism were too far developed and the social relations too complex to permit going back to a small-scale economy of independent commodity producers.

The mistake that Husami, following Marx, makes is assuming that the contractual roles constituting the firm come in a bundle so to speak, or as Ellerman puts it "the fundamental myth of capitalist property rights" (1992, p. 6). To put it in more specific terms, the fundamental myth assumes that the rights of residual claimancy, the rights of bearing the costs of the inputs used in the production process and the rights of owning the firm's

outputs, follow necessarily from the ownership rights of the means of production, the capital assets such as the machinery and the plant used in the production process (Ellerman, 1992, p. 12). Ellerman stresses that property rights are a category which include many specific rights which do not necessarily follow from each other. Ownerships rights, residual claimancy rights, and control rights all fall under the category of property rights. However, rights to own the means of production do not imply a right to residual claimancy or what is equivalent, the right to *appropriate* the firm's total product. As it so happens, in reality the holders of ownership rights also tend to be the holders of residual claimancy rights. However, this need not be the case. For example, a labor-managed firm may have residual claimancy, or appropriating rights, to capital even though they only rent out the capital equipment from private individuals and thus do not have ownership rights on the capital assets. To give a further historical example, during the Communist¹ regime in the Soviet Union all the means of production were nationalized and placed under state ownership, with the assumption that the state was the representative of the working class. As Wolff and Resnik make clear, however, even though the Soviet state nationalized property ownership, the workers themselves did not collectively appropriate the surpluses they produced inside the firms in which they worked. The rights of appropriation instead went to the Soviet state officials (Wolff & Resnik, 2012, p. 338). A more promising route advocated by 'market socialists' such as Ellerman (1992), Burczak (2006), and Bowles and Gintis (1993, 1994) is to make workers residual claimants of the firm while allowing workers to rent or lease the capital assets, such as the machinery needed in the production process. Gregory Dow (2003) presents one such modest proposal to achieve this goal through workers creating a workers' trust which gradually buys back the shares of the firm from its shareholders, while leasing the capital equipment needed for production; workers ultimately receive a 'wage' construed as a payment of dividends on the equity capital shares they own in the firm. By making workers residual claimants of the firm, while the means of production are leased, appropriative justice in Ellerman's sense is upheld as "workers are jointly the first owners of the manufactured output and the final owners of the input liabilities, specifically their collectively owned labor time" (Burczak, 2006, p. 110).

5. Hegel's ethical theory of self-actualization²

I have established that the principle of appropriative justice as interpreted by Ellerman and Burczak does not require abolishing private ownership of the means of production, only that workers are made residual claimants. I now would like to give the principle of appropriative justice a more authentically Marxian interpretation by grounding it in the Hegelian ethical theory of self-actualization. For Hegel self-actualization is acting in accordance with the human good as given by a historically determined human nature which is socially and culturally contextualized. In the literature on appropriative justice, normative force is given to the principle of appropriative justice by either grounding it in a Kantian conception of treating people as ends-in-themselves (Ellerman, 1992) or on any of the several capability theories advanced by Sen and Nussbaum, for example (Burczak, 2006). I have already explored the Kantian justification for upholding appropriative justice *vis-à-vis* Ellerman's labor theory of property. The capability justification for upholding appropriative justice is grounded on the idea that all members of society should have equal capabilities to function as appropriators of the social product entailing meaningful participation in decisions regarding the use of the firm's total (or surplus) product (DeMartino, 2003, p. 21). The capability framework, as I interpret it, is silent regarding what is to be regarded as a valued functioning and therefore I do not find it to be very informative regarding what is normatively appealing about appropriative justice. However, to be fair, I have only mentioned one specific conceptualization of the capability approach and given that many alternative conceptions exist it may well be that an alternate conception of the capability approach can just as effectively ground a principle of appropriative justice as a Kantian framework. As appealing as I find the Kantian justification for upholding appropriative justice, in the final part of this paper I will try to find a normative grounding for appropriative justice that is more faithful to Marxian philosophical thought. Given that Marx took Hegel and not Kant as his point of philosophical departure, naturally, we will have to find normative justification for appropriative justice in Hegel if we wish to stick more closely to Marx's philosophical language.

For Hegel self-actualization is a dialectical process whereby a person, mediated by the collective consciousness of historical cultural forms, seeks to understand both who he is and who he ought to be and to actualize this self through the pursuing of principles and ends which are seen as consistent with the kind of self he is and ought to be. In Hegel's conception of self-actualization the distinction between theoretical reason, and practical reason disappears as the two sides of reason (or spirit) are seen to be mutually interconnected. Following Kant, Hegel defines theoretical reason as knowledge of what is, while practical reason is defined as knowledge of how things ought to be. In the process of self-actualization practical reason and theoretical reason are dialectically conjoined, as each form of reason presupposes the existence of the other form of reason. Theoretical reason presupposes a concern with what I am and what I ought to do, thus presupposing practical reason. Likewise, in actualizing practical reason the will reveals what I am, thus presupposing theoretical reason. For Hegel, what *I am* is a being whose vocation is to know itself and actualize its knowledge of the self, or what he calls Freedom (Wood, 1990, p. 32). By using the word vocation, Hegel is making the teleological claim that knowledge of self, and the actualization of this knowledge, is the end, or purpose, of human nature. As Wood explains further, both Hegel and Marx regard the self that is to be discovered and actualized as a historical product, mediated through the specific social processes of a historical time period (p. 33). The connection between self-actualization and appropriative justice can now be drawn. The historical process reveals that an element of man's self-knowledge is his conception of his nature as a productive animal. Through his nature as a productive animal he seeks to actualize himself through laboring on the inorganic and organic matter of nature and in so doing sees himself in the objects he produces. This leads him to further redefine his self-conception as productive being. The productive activity of man becomes itself an object of his will and consciousness and through this process of self-consciousness man makes not only his own nature his object but his nature as man, as a member of a species, and hence in so doing he defines what it means to be human (Marx, 1964). In a society where workers are alienated from their own product in that they are denied the ability to appropriate the product of their labors, not only does

the commodity they produce confront them as alien, but their very productive life-activity and hence their own self appear as not their own. In denying the worker the capacity to define himself through his productive activity, he is being denied the ability to actualize himself and know his self through actualization. He is being denied the Freedom, as a being whose vocation it is to know himself and actualize this knowledge, which makes him human (Wood, 1990, p. 17). For Hegel self-actualization is what makes human beings human *beings*. It is essential to what we are. Human beings are beings that are constantly self-actualizing themselves. Appropriative injustice, thus, dehumanizes mankind.

6. Conclusion

The relationship between Marxian social theory and theories of justices has always been an uneasy and complicated one, since Marx actively sought to avoid the normative language which many read into his critique of capitalist exploitation. In this paper I have examined one particular theory of socialist justice, Husami's principle of appropriative justice, in which laborers should have the right to appropriate the surplus product they produce. Since the workers are the ones contributing to the production of surplus value, they should be given the right of appropriation to this surplus product. I have then criticized Husami's notion of appropriative justice on two crucial aspects. First I followed Ellerman and Burczak in identifying the injustice of exploitation as stemming from the fact that workers do not appropriate the total product rather than the surplus product. Second I criticized Husami's contention that ending capitalist exploitation requires the socialization of the means of production by exposing his commitment to what Ellerman terms the 'fundamental myth of capitalist property rights'. Lastly I argued that grounding a principle of appropriative justice in the Hegelian theory of self-actualization, rather than a Kantian theory of rights or a capability approach of human flourishing, is far more faithful to Marx's condemnation of capitalism for its denial of fundamental non-moral goods.

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Notes

1. Communist in name only, given that it's economic structure was in essence a form of state socialism.
2. I follow Wood (1990, p. 17) in defining an *ethical*, as opposed to a *moral* theory, as a theory that is "grounded in a knowledge of human beings that enables us to say that some modes of life are suited to our Nature, whereas others are not. In that sense, ethical theories generally may be regarded as theories of human self-actualization."

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