Common Morality: Deciding What to Do

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[Page 15] Analogy between Morality and Grammar

Common morality is complex, but it is less complex than the grammar of a language. Just as all and only speakers of a language [Page 16] who can use its grammar in speaking intelligibly and in understanding the speech of others are considered to be competent, so all and only those persons who can apply the moral system in making moral decisions and judgments are considered moral agents. However, only those who have tried to systematize and explain the utterances of competent speakers, such as grammarians, can provide an explicit description of the grammatical system. Similarly, only those who attempt to systematize and explain the thoughtful moral decisions and judgments of moral agents, such as philosophers, can provide an explicit description of the moral system that accounts for those decisions and judgments.

Grammarians make explicit the rules of grammar that competent speakers of the language make use of implicitly in speaking and interpreting the speech of others. The test of whether these explicit grammatical rules are the implicit rules used by competent speakers is determined by whether they yield the sentences that these competent speakers accept as grammatical and rule out the sentences that these competent speakers reject as ungrammatical. Although there are many languages, some linguists claim that there is a universal grammar that provides the framework for all languages.

Similarly, moral philosophers attempt to make explicit the moral rules, ideals, and procedures for justifying violations that moral agents make use of implicitly in making their own moral decisions and judging the moral decisions of others. Common morality provides the universal framework for all the moral codes of particular societies. The test of whether the system made explicit by a philosopher is this framework is whether it yields the decisions and judgments that all moral agents accept as morally acceptable and rules out those decisions and judgments that all moral agents reject as unacceptable. However, since moral decisions and judgments involve our interests and emotions to a much greater extent than deciding whether a sentence is grammatical, moral agents sometimes [Page 17] make moral decisions and judgments that conflict with the

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implicit system that they normally use in making their moral decisions and judgments. Indeed, sometimes they are so emotionally invested in a particular decision or judgment, for example, because of their religious beliefs, that they may even explicitly repudiate the implicit system that guides their other moral decisions and judgments. I do not take these judgments to count at all against my description of common morality.

Grammarians do not have the final word on what counts as a grammatical sentence. Unlike historians or scientists, who can prove that everyone is mistaken in what they take to be a historical or scientific fact, grammarians cannot show everyone to be mistaken in their understanding of grammar. Competent speakers of a language have the final word on what counts as a grammatical sentence. Philosophers are closer to grammarians than to historians and scientists. However, morality must be a consistent system, all of whose parts must be rationally acceptable. Therefore, a philosopher can show that a moral decision or judgment that is made by a large number of moral agents is mistaken if he can show that the decision (or acting according to the judgment) is irrational. Also, given agreement on the facts, a moral philosopher can show that a moral decision or judgment is mistaken if he can show that the moral decision or judgment is incompatible with the moral decisions or judgments that would be made by any impartial rational person. . . . [Ellipsis added.]

[Page 19] Features of the Moral System

Although moral rules and moral ideals are the most recognizable elements of common morality, the moral system is not merely a collection of moral rules and ideals; it is the system in which these rules and ideals are embedded. This system also includes a two-step procedure that people use, usually implicitly, to decide whether to allow a particular violation of a moral rule. The first step is describing a violation in terms of a set of morally relevant features, thereby determining the correct description of the violation. The second step is estimating the harmful and beneficial consequences of everyone knowing that the violation described by means of the first step is allowed.

The moral rules, moral ideals, and a two-step procedure, including the morally relevant features, for deciding whether a violation of a moral rule is justified are the central features of the common moral system. If my description of common morality is correct, all those who conscientiously apply the following explicit description of the moral system to moral problems will discover that they agree with the moral decisions and judgments that result. This does not mean that everyone who correctly applies this moral system will make the same moral decisions and judgments. Although there will be agreement on the moral acceptability of a vast majority of [Page 20] actions, common morality allows for
some unresolvable moral disagreements.

Common morality is a framework that, within limits, allows different persons to fill in their own view about (1) the scope of morality, (2) the rankings of the relevant harms and benefits, (3) the harmful and beneficial consequences of everyone knowing that a given kind of violation is allowed and that it is not allowed, and (4) the interpretation of the rules. When a rational person incorporates her views on these matters into the common moral framework, the moral system will yield those moral decisions and judgments that the person accepts, at least after reflection. If it does not, then I will have been shown wrong and my description of morality will have to be revised again.

The Moral Rules

The ten general moral rules listed below account for all of the kinds of actions that are morally prohibited and required. They make explicit that part of the moral system that informs moral agents if some excuse or justification is needed for their behavior. They are formulated to provide a clear and usable description of that part of the moral system.

| 1. Do not kill. | 6. Do not deceive. |
| 3. Do not disable. | 8. Do not cheat. |
| 4. Do not deprive of freedom. | 9. Obey the law. |
| 5. Do not deprive of pleasure. | 10. Do your duty. |

All violations of any of these rules without adequate justification are immoral actions. Given the appropriate interpretations, these rules also prohibit all immoral actions. All of these rules [Page 21] should be interpreted not only as prohibiting any intentional violation of a rule but also as prohibiting any attempt to violate a rule, even if that attempt is unsuccessful. Not only are causing pain and deceiving violations, but so is attempting to cause pain and deceive. Intentionally acting so as to significantly increase the risk that someone will suffer any harm also counts as a violation of these rules. All of these violations are immoral unless the agent has an adequate justification for the violation. Knowingly, but not intentionally, sometimes even unknowingly, acting in a way that results in someone suffering a harm or in a significantly increased risk of someone suffering a harm sometimes counts as a violation of a rule, but sometimes not. Whether it does depends on the circumstances of the case and the interpretation of the rule.

Other formulations of moral rules might also prohibit all immoral actions, but the present formulation is both natural and has less serious problems
than other commonly proposed formulations. The first five rules could be collapsed into one rule, “Do not cause harm,” but this would give the false impression that harms are a homogenous category that can be ranked on a single scale. Of course, the rule “Do not cause pain” could also be criticized on the same grounds, but the explicit recognition that there are several different kinds of harms makes it unlikely as well as pointless to claim that everyone ranks all pains in the same way. Although it is obvious that different kinds of pains are ranked differently by different people, there are too many kinds of pain to have a separate rule that prohibits causing each of them. Having one rule that prohibits causing all pains, together with having distinct rules that prohibit causing each of the four other general kinds of harms, does not suggest that everyone agrees on the ranking of harms, but it allows five rules to prohibit causing all of the basic harms.

Collapsing all of the second five rules into some rule like “Do not violate trust” also would not be useful. Although this rule could [Page 22] be given a sense such that it prohibits every action prohibited by the second five rules, no one who was not taught this special sense would understand it. It would have to be explained by pointing out that it prohibits deceiving, breaking promises, cheating, breaking the law, and neglecting one’s duty. Although each of the second five rules must also be explained, these explanations are generally quite straightforward and easily understood. As formulated, the ten rules are part of an explicit system that all moral agents can be expected to know and follow.

Having ten moral rules, as this formulation does, takes advantage of a well-known tradition. That putting forward exactly ten rules leads some philosophers to try that much harder to find mistakes is an unintended bonus. The present formulation also results in the rules being neatly divided into two distinct categories, the first five prohibiting directly causing all of the basic harms and the second five prohibiting those kinds of actions that indirectly cause these same harms. Although widespread violation of the second five rules always results in an increase in the amount of harm suffered, a particular violation of the second five rules does not always result in anyone suffering some harm. Because no one may be harmed by a particular unjustifiable violation of any one of the second five rules, it is not surprising that it is primarily with regard to these rules that people ask, “Why should I be moral?”

The Moral Ideals

Since acting on any moral ideal is intentionally acting so as to avoid, prevent, or relieve the suffering of harm by someone protected by the moral system, there is no need to provide a detailed description of each particular moral ideal. Unlike the moral rules, people are only encouraged, not required, to follow moral
That means that failing to follow a moral ideal, unlike violating a moral rule, does not involve liability to punishment. Also, unlike violations of moral rules, which always need to be justified, there is usually no need to be concerned with justifying a failure to follow a moral ideal. As these considerations suggest, it is considered more important for people to obey the moral rules than to follow the moral ideals. In the final chapter of *Utilitarianism* (paragraph 32), Mill makes this point forcefully: “The moral rules which forbid mankind to hurt one another (in which we must never forget to include a wrongful interference with each other’s freedom) are more vital to human well-being than any maxims, however important, which only point out the best mode of managing some department of human affairs... a person may possibly not need the benefits of others, but he always needs that they not do him hurt.” [Ellipsis in original.]

The moral ideals encourage people to prevent or relieve the harms that the moral rules prohibit them from causing. When a person has no duty to do so, it is following a moral ideal to prevent death, to prevent or relieve pain, to prevent or relieve disabilities, and to prevent the loss of freedom or the loss of pleasure. Preventing avoidable death, pain, and disability are among the major goals of medicine, which is why entering into the practice of medicine is usually regarded as following moral ideals. Insofar as lawyers seek to prevent the loss of freedom, they are also following moral ideals. Besides these direct attempts to prevent or relieve the suffering of harms, there are also indirect attempts. For example, police who seek to prevent people from unjustifiably violating the moral rules are acting on moral ideals—as are those who teach people to follow the moral rules and to act on the moral ideals. To intentionally act to lessen the amount of harm suffered by others, either directly or indirectly, is to follow a moral ideal, but such an action is not morally acceptable if it involves an unjustified violation of a moral rule.

When acting on a moral ideal involves violating a moral rule, it is often not clear whether the moral ideal should be followed or the moral rule obeyed. It may be thought that because people are required to obey the moral rules and are only encouraged to follow the moral ideals, following a moral ideal never justifies violating a moral rule. Stated abstractly, it may sound paradoxical to say that doing what is morally encouraged can justify not doing what is morally required, but examples show its truth. Unless he has an adequate justification, a person who promises to pick someone up for dinner is morally required to do so. No person, except possibly a fireman, is required to risk his life to save children from a burning building. Nonetheless, assuming that such a risk is reasonable, many would morally encourage a person to try to save the children. However, if he were no more qualified than many others who were also present, he would certainly not be morally required to do so. Yet no one doubts that his trying to save the children provides an adequate justification for his breaking his
promise to pick up the person for dinner.

Because following a moral ideal can provide a justification for violating a moral rule, it is important to distinguish moral ideals from other ideals that do not provide such a justification. In particular, it is important to distinguish moral ideals, which aim at lessening the amount of harm suffered, from utilitarian ideals, which aim at increasing the amount of goods. Usually there is no doubt about whether a person is following a moral ideal or a utilitarian ideal (physicians act on moral ideals; pastry chefs act on utilitarian ideals), but sometimes it is not clear which is involved. Providing pleasure for deprived persons counts as following a moral ideal, but providing more pleasure for those who already have a good life is following a utilitarian ideal.

The distinction between moral and utilitarian ideals loses its significance when it is not clear which one is involved. When an action is difficult to classify, it may not make any difference which way it is classified. Consider a case where a person has won a lottery but needs to claim her prize within a limited time or lose it. Is it following a utilitarian ideal, promoting benefits, or a moral ideal, preventing the loss of benefits, to try to notify her so that she can claim the prize within the allotted time? To attempt to decide in this way whether it is justified to break a promise to pick up a friend for dinner in order to find and notify the lottery winner is to demand more precision than the subject matter allows. Although cases might be found in which following a utilitarian ideal is taken as justifying the violation of a moral rule, in almost all of these cases, it is also plausible to view the action as following a moral ideal. Or, because most of these cases involve breaking promises, it is likely that people justifiably believe that the person to whom the promise was made would have excused them from keeping the promise if she had known about the situation.

Like the actions prohibited or required by the basic general moral rules, the actions encouraged by the basic general moral ideals are simple kinds of actions, such as preventing or relieving pain, which are understood by all moral agents. But whereas the moral rules provide limits to what a person is allowed to do, no matter what his goals are, the moral ideals set out goals or ends that persons are encouraged to adopt. Whereas people are expected to abide by the limits set by the moral rules all of the time unless they have an adequate justification for violating them, no one is expected to try to achieve the goals or ends encouraged by the moral ideals all of the time. . . . [Ellipsis added.]

[Page 26] As both Kant and Mill point out, it is far more important for there to be general obedience to the moral rules (perfect duties) than for there to be general following of the moral ideals (imperfect duties). Whereas widespread failure to follow moral ideals prevents a society from flourishing, widespread violations of the moral rules make it impossible to maintain a viable society. Nonetheless, following the moral ideals expresses the point of morality, namely, the prevention of harm being suffered, more directly than obeying the
moral rules. A person who never follows any moral ideals cannot be a morally good person, even if he never violates a moral rule. A hermit might never violate a moral rule, but this need not say anything about his moral character. Although a society could not continue to exist if there were not general obedience to the moral rules, it could not flourish unless a significant number of its citizens followed the moral ideals. Recognition of the importance of moral ideals makes clear that it is a serious mistake to regard morality as consisting solely of rules that prohibit and require. Nonetheless, the rules are central to morality, and so a more detailed analysis of them is in order. . . . [Ellipsis added.]

[Page 40] Summary of the first five rules

The first five rules prohibit causing all of the basic harms. These harms are (1) death or permanent loss of consciousness; (2) pain, including all unpleasant feelings such as displeasure (anger), disgust, anxiety (fear), and sadness, as well as physical and emotional pain; (3) disability, including the loss of any physical, mental, or volitional ability; (4) loss of freedom, which includes loss of opportunity and resources and also loss of bodily integrity and privacy; and (5) loss of pleasure, including the loss of that which provides pleasure. Apart from death, each of these harms includes many subcategories, so that everything that is normally considered a basic harm or evil is included in this list. Two facts support this claim to completeness. First, nothing counts as a punishment unless it involves the infliction of one of these harms. Second, nothing counts as a malady, that is, as a disease or injury, unless it involves one or more of these basic harms. . . . [Ellipsis added.]


There is universal agreement about those kinds of actions that count as immoral unless one has an adequate justification for doing them, or, as I have been expressing it, about what rules are moral rules. My concern here is with the procedure for deciding [Page 56] whether a violation is justified when there is agreement about the interpretation of a moral rule and about who is protected by morality. I am concerned with the justification of a clear violation of a moral rule with regard to a moral agent, someone who is regarded by everyone as fully protected by morality. No one has any serious doubts that killing, causing pain or disability, depriving of freedom or pleasure, deceiving, breaking promises, cheating, breaking the law, and neglecting a duty need justification in order not to be immoral. But sometimes there are serious disagreements about what counts as an adequate justification.
Kant seems to hold that it is never justified to break some of these rules (On a Supposed Right to Lie because of Philanthropic Concerns). A well-known example is his claim that it is morally wrong for a person to lie to a hired killer in order to protect an innocent person from being killed by that hired killer. This view is regarded, even by his defenders, as a serious mistake. Moral agents agree that some violations of the moral rules are justified. Even killing may be justified if it is done in self-defense.

Mill seems to hold that there is an adequate justification for breaking any rule whenever the overall consequences of breaking that rule would be better than the overall consequences of obeying it. Mill insists that when taking into account the consequences of violating the rule, it is important to give the appropriate weight to the possible weakening of the rule. Nonetheless, in a particular situation, his view entails that it is only the consequences, direct and indirect, of the particular act that are decisive in determining whether the violation is justified. This view yields an incorrect answer to the question about whether it is morally acceptable for a pre-med student to cheat on an exam when (1) the exam is on the honor principle, making it virtually certain that he will not be caught; (2) no other student will be harmed because both the course and the exam are graded as pass/fail; (3) knowing the material is [Page 57] not essential for his future career because the exam is in a course in metaphysics; and (4) there are the standard financial and emotional consequences for the student and his parents if he flunks the exam and course.

Common morality incorporates a more complex account of the justification of a violation of a moral rule. It incorporates the kind of impartiality that Kant is mistakenly regarded as having provided by the Categorical Imperative. It also incorporates a concern with consequences, but unlike in Mill’s formulation, these are not limited to the consequences of the particular action. Common morality differs from both Mill and Kant in another very important respect. Indeed, common morality differs from most philosophical descriptions of morality in this respect, because it holds that equally informed, impartial, rational persons sometimes can disagree about whether a violation of a moral rule should be allowed.

When every qualified person, that is, an impartial rational person who knows all the morally relevant features of the violation, agrees that a particular violation should be allowed, then that violation is strongly justified and a person should not be liable to punishment for violating the rule. When every qualified person agrees that the violation should not be allowed, then the violation is unjustified and a person should be liable to punishment for violating the rule. When people disagree about whether the violation should be allowed, the violation is weakly justified, but a person still should be liable to punishment for violating the rule. Common morality acknowledges that punishment for a
weakly justified violation may be morally justified. Recognizing that equally informed, impartial, rational persons can disagree about whether a given violation of a moral rule should be allowed makes it understandable why weakly justified civil disobedience may be justifiably punished.