

COMMUNICATION IN ADOPTING MORAL NORMS¹

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บทคัดย่อ

ดูเหมือนว่ามีช่องว่างที่ข้ามไม่ได้ระหว่างข้อความเชิงบรรยายในปรัชญาศีลธรรม (จริยศาสตร์) กับข้อความเชิงกำหนดให้ทำที่มีในบรรทัดฐานทางศีลธรรม ช่องว่างนี้หลีกเลี่ยงได้โดยการเสนอคำอธิบายที่เน้นไปในทางปฏิบัติที่อธิบายความหมายของบรรทัดฐานทางศีลธรรมไปในทางประโยชน์นิยม ซึ่งมองบรรทัดฐานเหล่านั้นว่าเป็นสิ่งที่มนุษย์สร้างขึ้นเพื่อใช้ไปในการสร้างสถานการณ์ทางสังคมที่สะท้อนการให้คุณค่าอันเป็นอัตวิสัยที่เป็นสากลสำหรับสมาชิกของสังคม การให้คุณค่าที่เป็นอัตวิสัยที่มีร่วมกันอย่างเป็นสากล ที่มีเนื้อหาวาดด้วยการไม่ปฏิบัติต่อใครก็ตาม หากเขาไม่ยินยอมเป็นเหตุผลของการรับเอาบรรทัดฐานทางศีลธรรมที่ห้ามการกระทำเช่นนี้ การรับเอาบรรทัดฐานนี้เชื่อว่าจะส่งผลให้เกิดสิ่งที่เป็นประโยชน์แก่การเป็นอยู่ที่ดีของมนุษย์ ทั้งนี้ที่ผู้คนทราบว่าบรรทัดฐานสอดคล้องกับความชอบที่เป็นอัตวิสัย บรรทัดฐานนั้นก็จะได้รับการยอมรับในสังคม และถูกทำให้เป็นกลไกภายในปัจเจกบุคคลโดยผ่านการสื่อสารที่หล่อเลี้ยงบรรทัดฐานนั้นๆ การทำ

ให้เป็นภายในนี้เกิดขึ้นควบคู่กับการที่บรรทัดฐานสากลอยู่ในรูปที่ปรากฏในการยอมรับอยู่เบื้องหลัง วิธีการที่นำมาใช้เพื่อให้แน่ใจในว่าบรรทัดฐานทางศีลธรรมได้รับการเชื่อฟัง คือการสร้างกลไกการบังคับใช้ที่พัฒนาระบบของการลงโทษหากมีการละเมิดบรรทัดฐาน ซึ่งระบบดังกล่าวก็พัฒนาไปเป็นระบบทางกฎหมายและการเมืองที่มีความชอบธรรมทางศีลธรรม

Abstract

There is a seemingly unbridgeable gap between descriptive statements of moral philosophy (ethics) and prescriptive statements of moral norms. The gap can be avoided by introducing a praxeological explanation of the utilitarian meaning of moral norms which treats them as man-made devices utilized for creating social circumstances that reflect universal subjective value preferences of members of society. The universally shared subjective preference not to be acted upon against ones consent is the reason for adopting a moral norm that prohibits such actions. Adoption of this norm is believed to result in things beneficial to human well-being. As soon as people realize that a norm is in accord with their subjective preferences, the norm becomes adopted by society and internalized by individuals via the communication that sustains it. Along with its internalization the universal norm can take a particular shape contained in background assumptions. The means utilized to ensure that a moral norm is obeyed is the creation of enforcement mechanisms that develop a system of punishments for violating the norm, which

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then gives way to the development of morally legitimate legal and political systems.

Introduction

In this article I will endeavour to address the question of the impossibility of deriving a moral "ought" from an "is" as an inability to reach prescriptive premises from descriptive conclusions of moral reasoning. In particular, I shall focus on why people who are able to tell good from bad should accept this knowledge as the foundation of a moral norm. In the first section I shall outline the difference between descriptive statements of moral philosophy and normative prescriptive statements of moral norms. In the second section I will formulate the concept of moral wrong. In the third section I will discuss the nature of moral norms and their relationship to descriptive ethical statements and how the former may be derived from the latter. In the fourth section I will focus on the question of how moral norms are internalized by a society. In my view, the process of internalization is realized via communication that brings the concepts of moral norms into the realm of intersubjectivity. In the fifth section I briefly touch upon the question of why anyone should act in accordance with a particular norm and choose to follow it. Section six provides a summary and conclusion.

Descriptive and Prescriptive Ethical Statements

In this section I will look at the issue of the "is"- "ought" dichotomy and examine

the difference between descriptive statements of moral philosophy and prescriptive normative statements of moral norms (fact and value distinction).

Since the time of Hume (1739:335) it has been a common belief that we need to distinguish between descriptive and normative propositions (known as the "is" and "ought" dichotomy). This is one of the central questions of ethical theory and Hume is usually assigned the position that such a derivation is impossible (Priest 2007:177–178). This complete severing of "is" from "ought" has been given the graphic designation of Hume's Guillotine (Black 1964:165–181). In ethical philosophy it can be understood as the requirement to distinguish between two separate tasks: one is to identify what is wrong and what is right (and how to tell wrong from right); and the other, totally different from the former, is to tell how one should or ought to act (Garner and Bernard 1967).

The difference is important, because a good and morally "right" action is not necessarily an imperative and if descriptive ethical statements can be discovered from certain methodological positions, it does not hold true that the same methodological positions will be suitable for formulating normative ethical statements and propositions of norms (Findlay 1961). Philosophical concepts can be utilized for identifying what is good and what is bad (or what is wrong and what is right), but they are incapable of telling people what they should do (or should not do). What an individual should do or how she/ we should act depends on

the goals or aims that this individual personally sets. To paraphrase Lewis Carroll (1865): "which way you ought to go from here depends a good deal on where you want to get to". There is no simple way around Hume's guillotine and jumping from descriptive statements of "is" to normative statements of "ought".

My first suggestion is that each of the two questions — 1) what is good, and — 2) what one ought to do - requires utilization of different means for answering each, and should be approached from different methodological positions. Part of the confusion we observe in ethical thinking comes from numerous attempts to use inappropriate means for achieving different ends.

Following Kant, I would assume that moral truths (descriptive statements) can only be generated by reason and rational intuition (Kant 1785:441–444; 1787:35–41,153,157). If the conclusions that we reach through our deductions are in accordance with the methodological principles on which we base our theory, then we can believe the knowledge that we acquire by it is true (see Moore 1993/1903).

Prescriptive normative statements, in contrast, attempt to answer the set of questions that arises when considering how one ought to act, morally speaking. They are concerned with moral norms. A moral norm is a norm in the sense of being a standard with which moral agents ought to comply. While descriptive statements are discovered by means of reason, moral norms are supposed to stem from them.

"Murder is wrong" is an example of a descriptive statement. "Thou shall not murder" is an example of a norm derived from it: the norm is meant to guide actions and to the extent that people do not comply, they may be judged morally—that is, morally blamed. This is, then, the meaning of a moral norm. At this point, where moral norms stem from descriptive statements, the gap between "is" and "ought" appears. Even if A agrees that murder is bad, why should A not murder? As Christine Korsgaard puts it, "Why should I be moral?" (1996:9).

My second suggestion addresses this problem - instead of the initial two questions, I propose to think of three questions that are intrinsically connected, and yet still have seemingly unbridgeable gaps between them. These questions need to be separated, since they require the utilization of different methodologies in order to be answered: 1) the question of what is morally right and wrong; 2) the question of why a particular moral norm is developed and how it is adopted in societies, and 3) the question of why an individual ought to follow moral norms. In this paper I intend to primarily focus on the relationship between the first two questions and only briefly touch on the third question of why anyone should act in accordance to a particular norm.

My suggestion is that inserting one more question in between the traditional "is" and "ought" is extremely important for developing our understanding of social morality. Moral norms, understood as human devices, can be seen as man-made concepts that are utilized for creating

certain social conditions. One should not confuse them with the questions of individual morality (prescriptions for how one should act in particular situations). Normative ethics as a study of moral norms from this point of view does not give answers as to how *one* ought to act, instead, it gives the answer to what will happen if a particular moral norm is accepted, what type of society this will create.

Such an approach answers the popular critique of ethical systems that confuses moral norms with personal decision making. Critics will insist that «there is no reason besides arbitrary preference for a person to change his conduct and conform to a particular code of ethics if not doing so will cause him no harm. Therefore if an individual can act contrary to the teachings of a given ethical system and yet avoid the negative consequences described by that system, to this extent he may continue to act in the manner to which he is accustomed, safe in the knowledge that the specified negative consequences will not befall him» (see, ex.: Knott 2013). The objection arises from a confusion in terms - moral norms are not tools for personal decision making.

Instead of arriving at a specific knowledge of right and wrong (or even equipping an intending actor with it), prescriptive moral statements are utilized for creating social norms of behaviour. Those norms aid the development of particular standards of interactions, creating certain social circumstances, as was suggested in the concept of society-based constructivism of David Copp (1995, 2007).

In these social circumstances (or society), right actions are considered morally acceptable and wrong actions are considered morally unacceptable and blameworthy. In this sense moral philosophy is a means of attaining the knowledge of right and wrong, while moral norms are a means of attaining a particular social goal, or a human device for the realisation of some definite ends - creating particular social circumstances.

The question most people interested in moral theory want answered is what shape “society” should take. They want to know which institutions should be established and which laws enacted to be consistent with the ideals of good and bad. Of course, we want moral norms to be in accordance with our ethical knowledge but that does not answer the question of why one ought to follow a particular norm. In this sense the gap from “is” to “ought” is also seemingly unbridgeable.

The answer to the question, that I will address in the fourth section of this paper lies in its correct formulation. My suggestion is that as soon as members of society realize the benefits of a particular norm for their well-being, they become less interested in why they should conform to this norm and more interested in how to make sure that others follow it. It becomes their goal to make sure that others decide to conform to a particular norm. It is, in essence, the question of finding the means for the «enforcement» of norms, which is a totally different issue - of ensuring that other people actually prefer to follow the adopted moral code. It is important to stress that I am not attempting to explain

why a particular person ought to conform to or follow a particular moral norm, I am merely trying to explain what moral norms are needed for and why people are interested in adopting and enforcing them (i.e. giving others a reason to conform to the norms).

I am suggesting that norms are devices for creating a society in which wrong actions will be considered unacceptable - and thus particular social circumstances will be created. It is a question of why people should prefer to create a society that will be based on a certain moral norm or why they should agree to adopt a particular norm as a moral standard of their society.

Describing moral wrongs

Ethics is, by definition, morality applied specifically to the realm of relationships among people. Ethics studies human acts with regard to their justness or goodness or morality. Thus ethics deals primarily with the means chosen for interacting with one's fellows, it is about "what you do unto others". For any issue to become a subject of ethical theory it should necessarily presuppose some interpersonal conduct. For any person's action to acquire an ethical dimension (right and wrong) it necessarily requires to have the presence of another actor, another human being in the situation. All ethical questions are necessarily questions related to interpersonal conduct and they involve the social interaction of at least two actors-when there is no social interaction no ethical questions arise.

Social actions acquire their ethical perspective only because they have an affect on other actors. Without a connection between the action and how it affects others, we are left with our own selfish interests and without any concern for anyone else, or, even, why we should care about them. Ethics lives in the realm of intersubjective concerns and meanings that have intersubjective components. Without perceiving the social implications of actions, ethical judgments are impossible and only when interests, values, and preferences of the other people around are recognized can an individual realize that his actions exist within social implications.

Why would it even matter what this or that person does unless we are interested in the social consequence implications of these actions? If we are not concerned with the implications of a set of actions, why would anyone even pay attention to the actions of that person? Unless we are concerned with how our actions affect other people, or with how their actions affect us, then we would not care what they do. People have their subjective perspectives but because they exist does not mean that we have to conclude that morality is a self-perpetuating issue. In fact, if we remain within the limits of self-circularity, we cannot do ethics at all.

It is because some actions affect others and the possibility of these effects that creates ethical questions. The idea of actions "affecting" others is reflected in our understanding of interpersonal actions as actions that "do unto others". By saying that A does X unto B we mean that A's

action X affects B, thus X is an interpersonal action of A towards B. This definition also implicitly suggests some notion of intentionality – the interpersonal actions of actor A are directed to or about or refer to another actor, B. Being an interpersonal action, X becomes the subject of ethics, and the notion of right and wrong can be applied to it. The question thus can be formulated in the following manner:

X is an action of A unto B. How can we tell if X is wrong?

The question of ethics is about “what we do unto others”, what is a wrong action unto B? Each person has subjective preferences regarding his own actions and other people’s actions directed towards them: we either like or dislike the particular actions of others unto us.

At the same time the only opinion about values that one can control is one’s own. As it can be found in every individual inner experience, any person can (apparently) know himself what his subjective preferences are. The very fact of the existence of individual subjective preferences results in arbitrary value judgments. As Mises states,

...nobody is in a position to substitute his own value judgments for those of the [...] individual, it is vain to pass judgment on other people’s aims and volitions. No man is qualified to declare what would make another man happier or less discontented. The critic either

tells us what he believes he would aim at if he were in the place of his fellow; or, in dictatorial arrogance blithely disposing of his fellow’s will and aspirations, declares what condition of this other man would better suit himself, the critic. (Mises 1988:18-19).

This simply means that each individual, and only that individual, can truly know what is wrong for him. These subjective preferences, likes and dislikes also encompass interpersonal relations. People are capable of extending their value judgments to other people’s actions towards them. In other words, we are all capable of telling when we consider other people’s actions upon us to be wrong.

People do not approve of actions they consider wrong. Although it may sound tautological, people object to being treated in a way they do not like to be treated, which is just another way of formulating an undeniable fact that people have subjective preferences. This is a fact that is hard to deny or defy - if A acts upon B in a manner X that B does not approve of, B will consider X wrong. It is a very simple standard to connect actions and their consequences. These are regularities that one can observe in one’s own conscious field; they stem from the inner experience of any human being.

This is almost self-evident. These empirically understandable truths are approachable to our understanding since we have a direct access to the content of our own mind and we can understand our

individual subjective preferences. The fact that we do not like people to treat us in a way we do not approve of can be demonstrated just like any other ontological fact. The facts about how we feel when we are acted upon, against or regardless of our opinion, can be considered to be an empirical question.

B's judgement and evaluation of the action X are necessarily subjective. There is no way of telling B what his preferences should be. His knowledge of what is wrong for him comes from his inner experience of making subjective preferences. If B considers X wrong for him, that means that B is wrong for him - it brings him unhappiness and dissatisfaction. If B thinks that A's action X unto him is wrong, that means that, from the ethical perspective, it is wrong. If A causes through X unhappiness to B, then X is a morally wrong.

The concept of the individual preference of subjectively good actions upon oneself over bad ones is universal. This principle itself discovered by reason remains constant. It is not culturally-specific or culture relativistic, because all cultures have to deal with the realities of the facts about human psychology, harm and the inter-related aspects of human existence.

These descriptive ethical statements determine what is morally wrong (acting upon others without their consent) and usually involve clear harm to a victim. For instance, murdering or injuring other people, trespassing and stealing are examples of morally wrong actions. These statements are pan-cultural, historically

invariant and objective. They do not depend on the authority of any individual, group, or institution.

Nichols (2004) - concludes that "despite the cross-cultural differences in moral judgment, the evidence indicates that all cultures share an important basic capacity, what I will call "core moral Judgment." The capacity to recognize that harm-based violations have a special status (as compared to conventional violations) is an important indicator of the capacity for core moral judgment. As a first approximation, the capacity for core moral judgment can be thought of as the capacity to recognize that harm-based violations are very serious, authority independent, generalizable and that such actions are wrong because of welfare considerations (Nichols 2004:7).

All cultures are subject to the same reality, and merely having the mass opinion that, for example, cannibalism or mass murder of foreigners is acceptable does not survive incompatibility with the moral principle of consent in general. Ethical reasoning provides an empirically understandable, self-evident and rational analysis that a moral code that allows some people to eat other people without their consent cannot be acceptable (a code that allows doing so with the consent of the victim is a totally different matter).

Developing Moral Norms

Although the fact that people consider actions that they do not like to be wrong stems from subjective preferences, this does not solely rely on personal value judgments; being applicable to all

individuals it becomes universal, giving the capability to identify wrong actions of other people towards us. When reversed, it tells the intending actors what possible actions might be considered as wrong and might be in need of alteration.

But why should we be interested in creating a society in which wrong actions will be considered morally unacceptable and blameworthy? Or, to put it in more conventional terms, why would anyone want to have a society where what we consider “wrong” for us is ethically forbidden?

When people live together they resort to a particular form of coexistence by accepting certain norms. These norms are applied specifically to the realm of relationships among people, dealing with the means chosen for interacting with one’s fellows, it is about “what you do upon others”. Norms are used to create societies with particular rules of acting towards one’s fellows, forbidding or blaming some kinds of interpersonal actions as “bad” or “wrong”. Being means, moral norms can only be evaluated on the grounds of their effectiveness or usefulness for the attainment of the ends chosen and aimed at. It is obvious that we are not talking about individual moral preferences but rather about a particular social device that functions in a particular way. Moral norms are, in essence, man-made devices that are utilized to establish basic principles of human coexistence and respond to the needs for establishing social circumstances that will create a good life for human beings.

Wrongdoing is by definition an action upon a person that this person objects to. We can say that everyone objects to wrongdoings against themselves. It is a universal subjective preference - nobody prefers to be a victim of actions she/ he does not like. It is a value that all people share - not to be acted upon against one’s will. If one does not object to a particular action upon oneself, this action does not qualify as wrongdoing anymore - there is given consent.

Thus we can conclude that people have a subjective preference not to be acted upon without their consent. To state otherwise would be self-contradictory: if A does not object to B acting upon A in a manner X without A’s consent that means that he gives his consent to X. Only the lack of consent to a particular action intended towards a person makes this action bad from this person’s point of view, the fact that there is a trespass is merely a description. Lack of consent gives an action its moral quality of a wrongdoing. If one does not mind being aggressed against it is not wrongdoing any more.

The existence of this shared subjective preference is the reason for adopting the moral standard according to which it is impermissible to act upon a person without his consent. Accepting this moral norm is a means of developing a society that satisfies the general human preference, shared by everyone, not to be physically assaulted.

This is the answer to the question of why we are interested in creating moral norms. We do not want others to initiate force or

unwanted, unsolicited actions that we object to upon us. People are concerned with the question of morality because they have a strong subjective preference not to be treated against their preference, the idea of being treated in such a way is something to which each of us has a very strong sense of resentment.

I would even suggest that the *grundnorms* originate from our desire not to become the victims of interpersonal violence or wrongdoings. Here I part with Kinsella (Kinsella 2009) who rather tends to think that they originate from the uneasiness we feel at the prospect of aggressing against others. Some people argue that we also have a feeling of resentment to the idea of others being treated in bad ways (Mises 1988:143-144). However, as human history seems to demonstrate, the amount of empathy that a given human has for another human may vary both among individual humans and with respect to particular situations. Empathy is a highly subjective emotion. An individual preference to be treated fairly seems to be a much stronger driving force for our pursuit of the foundation of moral norms.

Most people feel more comfortable when they use force against others as compared to situations when force is used against themselves. We accept the norm that prohibits wrongdoing precisely because we prefer not to suffer from it. It is indeed, a general and universally shared preference. As Gerald Gaus (1999) argues defending a similar course, everyone would agree because everyone has reasonable grounds for accepting this principle and no one has reasonable

grounds for rejecting it (Gaus 1999:26). Reasonable grounds are those that are clearly not defective, “that is, they are not based on clear mistakes in reasoning, or on clearly false information, or on manifest ignorance” (Ibid). Thus, it is quite easy to demonstrate to others how they will benefit as individuals from acceptance of this norm:

... as a group member, we have reasonable expectations concerning other members: that they will not murder us in our sleep; that they will not assault us when we go out at night, for instance... A society that placed no bounds on rape, pillage, and murder would disintegrate. Its members would defect. Without these limitations, society would be impossible. It is intrinsic to the nature of every social group that each member can rely on others not to arbitrarily rob them of their lives or their assets” (Michel 2009).

For now we seem to have given an extensive account of what is the general concept of right and wrong in social conduct, what moral norm can be logically derived from this concept and why people may be interested in adopting a moral norm as a specific social arrangement. It is an argument for specific social institutions and for specific conduct. The communication ethics concept is intended as a framework for conceiving regularity in ethical conduct and ethical phenomena and, at the same time, a proposal for a specific type of such conduct.

When ethics science is properly understood, then the specific modes of conduct proposed by any particular ethic are the subject matter of the general science of ethical phenomena. Ethical science treats the various methods or types of social interaction and communication ethics is a proposal for a particular type of social interaction.

However, to the extent that this ethic is based on an underlying or implicit social theory—a theory of social cause and effect—then it is based on some notion about the relationship between human conduct and human well-being. Adopting the above-described ethics and the establishment of the moral code based on it will lead to something good, positive or beneficial to human well-being, precisely because this system is in the best interest of each individual.

Moral prohibition of acting upon others against their consent indeed presupposes a theory of social cause and effect. Adoption of this ethic is believed to result in things beneficial to human well-being. Effectively, this particular social arrangement, or social circumstances, that results from adaptation of this moral code, is supported by an underlying theory of moral philosophy.

The Role of Communication in Adopting Moral Norms

In this section I will address the question of the incorporation and internalization of moral norms by society. A subjective preference towards a particular mode of interpersonal conduct has a chance to

become accepted as a widely shared and recognised moral code only when it gets to be evaluated in a diverse environment and is tested against diverse opinion. The value of a moral concept is proportional to its potential acceptability by different individuals and groups of varied values, it must be “universal” and compatible with a variety of views.

It is the result of an examination of our subjective preferences and the evaluation of other people’s actions that leads to the acknowledgement of the fact that if I accept the reality that other people exist, have similar types of internal experiences as I have, then they should also not have their subjective preferences acted upon without their consent. “Each individual understands that the other has plans involving the shared goal and “each interactant has goals with respect to each other’s goals. The second important aspect of this [collaborative effort] is the fact that the cognitive representation also contains the self and the other - it is thus a joint intention” (Tomasello et al., 2005:11).

Drawn from this personal experience and preference, the norm becomes shared within intersubjective reality. A mutually shared moral code creates a set of descriptions that function intersubjectively in relation to our consciousness: “...created by our collective effort, communication, and understanding. Being intersubjective, it is always being revised and updated just like a scientific theory. The strength of its propositions is directly related to how well it survives criticism and attempts to sink it” (McGonigal 2014).

Where we can derive effective moral norms stemming from ethical truths that reflect the subjective preferences of the people, those truths would promulgate in the intelligentsia, and have an effect on widely accepted norms. Then approbation and good will for following the code, and reprobation and ill will for violating it become common. As the result a particular action X becomes frowned upon or even punishable. When a moral code is adopted in society, approbation and good will for following the code, as well as reprobation and ill will for violating it, become common. This approbation and reprobation also generally become internalized forming the consciences of individuals (Sanchez 2011).

If opinion leaders acknowledge that unacceptability of acting upon others without their consent is more socially expedient and generally preferable and reflects the individual subjective preferences of everyone better than alternative codes, and they can convince the general public of that fact, the changes in public opinion will lead to the changes in the prevailing morality (Skyrms 2004, Alexander 2007).

Basically, moral codes accepted by society become the norms of behaviour that people share. The ultimate result of this will be a situation wherein certain moral codes, because of their wide acceptance, greatly reduce harmful social activity that people object to - acting upon others without their consent.

As soon as people realize that the concept of a proposed norm is in accord with their

subjective preferences, the norm becomes adopted in society, and internalized by individuals. It becomes considered as true and given, forming the consciences via persuasion and conviction.

When making decisions that are covered by a moral code, individuals do not deliberate over the ultimate utilitarian considerations on which the code is based. Instead their decision is immediately determined by social pressure and conscience. However, that doesn't change the fact that the ultimate basis for the adoption of the moral code is utilitarian, and that the ultimate, mediate cause of moral action is social utility... (Sanchez 2011).

The norm becomes internalised via culture and integrates in the realms of intersubjectivity created by communication. It is only possible because and insofar as people have the ability to communicate thus creating complex institutions allows for more efficient cooperation. As Gifford notes (2008):

It is essential to recognise these building blocks of culture if we are to understand its true meaning and nature. Because we come to understand our institutions, to the extent that we do, by being immersed in them from childhood (thorough a process involving implicit learning much more than by explicit learning), we do not realise how complex our

institutions are nor do we come close to understanding them.

Moral norms are the product of the human ability to communicate and via communication create certain mutually understood expectations. Norms begin to exist on their own as complex institutions' affecting people's experiences. The form in which the norms exist has the nature of communication. By being exposed to certain types of moral expectation expressed in communication, people from their childhood absorb and learn what the requirement of the norm is.

A norm starts to work as a norm when it is internalized. The individual carries the understanding of norms and expectations within herself/ himself at all times. Information no longer needs to travel up and down the hierarchy. The individual is deemed to have already accepted the existence of norms to apply in each and every circumstance. This is the goal of morality.

As Searle noted, people "who are participating in the institutions are typically not conscious of these rules; often they even have false beliefs about the nature of the institution, and even the very people who created the institution may be unaware of its structure" (Searle 1995:27). Further, "...the very people who created or participated in the evolution of the institution may themselves have been totally ignorant of the system of rules..." (Searle 1995:127-128).

Intersubjectivity is key to understanding the formation of norms. Cultural

interaction, cooperation, and social learning form the basis of to the solution of the internalisation problem. "The capacity for collective intentionality allows for the creation of social facts which facilitates the efficient use of widely dispersed private knowledge in society by making possible the construction of social coexistence...Intersubjective reality in its various forms facilitates cultural habits that make human interaction possible" (Gifford 2008:8-10). As Hofstede noted,

Moral norms acquired through the socialisation process of learning and integrating play a very important part in facilitating social interactions. Not only do they benefit individuals by creating circumstances that suit their needs, but also they serve the purpose of social utility through creating intersubjective, mutual expectations of acceptable actions. Some of these norms do not require active, conscious reflexion and become almost instinctive. The influences of the wider cultural environment are based on deeply rooted, fundamental values learned in early childhood, influences of the closer environment emanate from more superficial norms and rules relating to particular behaviours" (Hofstede 1985).

This ability to create intersubjectively shared norms allows for the creation of "...a system of collectively recognized rights, responsibilities, duties, obligations, and powers added onto—and in the end able to substitute for—brute physical

possession and cohabitation [allow for], a much more stable system of expectations..." (Searle 1995:81). The existence of the norms and their ability to function depends upon the knowledge, social habits, and dispositions contained in the brains of its users.

Searle explains how by living and growing up within a set of what could be described as rules, individuals acquire a "set of dispositions" to follow the rules. As a result of growing up with a set of rules, individuals acquire these dispositions largely through the example of others, instruction, ritual and the socialization process, with much of that last involving implicit rather than explicit instruction. Norms influence behaviour because, through a process of socialization that starts in infancy, they become part of one's motives for action: conformity to standing norms is a stable acquired disposition that is independent of the consequences of conforming (Parsons 1937:75).

This creates the basis of our own set of reasonable expectations of others' behaviour. Should their behaviour fail to meet our expectations — we experience disappointment, stress, and anxiety; we feel wronged. This expectation is reasonable and when it is dashed, especially through the deliberate actions of other members of our society (confiscating an owner's dwelling, taking a child away from her mother) we feel stress, anxiety and deep resentment (Michel 2009). It would be appropriate to sanction failure to comply with reasonable expectations. These expectations would be perfectly legitimate (at least from a moral point of

view), just as the stress and anxiety at seeing them disappointed is understandable. Norms are a social construct that is formed in an intersubjective reality or a shared social value that is determined and depends on the actions of others. They form these default assumptions, on which people operate. The presence of a conditional preference for conformity to norms and the belief that other people will conform produce a desired result - changes in behaviour (Bicchieri 2006).

The parties' intentions and their reasonable expectations concerning their respective behaviour suffice to create a right, but, as popular wisdom reminds us; "that which goes without saying is much better said, and even better written down!" Norms born of such contracts and agreements are no longer natural, nor inherent, nor common to all societies (as is respect for life and property). They illustrate the wide breadth of human commitment according to their historical context and level of development (the sale of a radio frequency would have made sense in medieval times). Parties devise strategies, base investments and enter into further agreements with other parties on the strength of these promises. Were the contracting party to renege on their obligations, those relying on them would be disappointed and sometimes gravely injured. (Michel 2009)

Moral truths (formulated in descriptive ethical statements) may form the foundation of moral norms - in case people recognize the truth and realises the benefits of creating a society based on the laws of morality. Moral norms can reflect

this moral truth. All we can say is that if we want to create a society that reflects our preferences, then we should create and accept norms that recognize the general principle.

Conforming to a Social Norm

Above we have demonstrated why acting upon others against their consent is wrong, and from that we derived what we consider to be a convincing argument for adopting a particular moral code that will prohibit such actions. This principle is generally acceptable because it benefits all the parties - it is in fact a strong principle of harm avoidance that will be of advantage to all.

Individual willingness to conform to a particular norm is a different issue and I think that here the relevant question to ask is not how to show an individual why it is in his interests to follow a particular moral code but rather to create circumstances in which it will be in his best interest to follow that code.

Ethical theory can be helpful in identifying what is wrong or what is right - for instance, it can be utilized to logically demonstrate why murder, theft or rape are bad. Moral codes, developed on the basis of the theory, are adopted to create particular social circumstances, in which harm will be avoided and all will benefit. An action in regard of (or towards) an ethical system is either accepting it or not accepting it on a level of society, admitting it into the realms of social reality, intersubjectivity. If people consider certain things acceptable, a

certain type of society will emerge (necessarily), as accepted moral codes become internalized.

But why should a particular individual choose to conform to this norm? Especially if he can expect to be better off by not following the code?

Here it is necessary to go back again to the distinction between ethics, moral norms, social norms and individual conduct. The question that we are asking here relates to the latter - individual conduct. So, returning to the correct application of a particular means for particular ends, the «thing» that we «do» with a moral code is adoption in society, but the «thing» that we «do» with a social norm is assuring that individuals prefer to conform to it, that individual violations of the social norm are minimized.

Yet, for an individual to conform to a particular code and to act in accordance to it there needs to be something more. There is no reason besides arbitrary preference, for a person to change his conduct and conform to a particular code of ethics if not doing so will cause him no harm. If an individual can act contrary to the teachings of a given ethical system and yet avoid the negative consequences described by that system, to this extent he may continue to act in the manner to which he is accustomed, safe in the knowledge that the specified negative consequences will not befall him. Thus, the question eventually arises whether the consequences claimed by a given ethical system must absolutely result from the specified conduct or

whether those consequences may only possibly result from it.

Conforming to a moral code is intrinsically a personal commitment. It creates predictability for that individual. Therefore the goal is to have a great number of individuals internalize certain core values. When we want to modify a mode of conduct of an individual, ethics should provide him with a means of avoiding harm by establishing a previously unknown necessary connection between something the individual was intending to aim for and something harmful to himself. We want to make sure that an individual's conduct and his well-being are closely connected, that is any violation of the social code needs to have necessary negative consequences.

What we want to do is to develop and utilize means that will attain the desired result. Our intended result in this case is to minimize the violation of the proposed social code that prohibits unsolicited wrongdoing. The most effective means to influence A in his decision to perform an impermissible X is to increase the cost of X for A, with the ultimate goal of the reduction or cessation of X by A.

There are multiple solutions to this. For instance, Gregory Kavka (2006) believes this reconciliation is possible through a combination of external sanctions (threat of punishment) and internal sanctions (guilt, empathy, etc.) for most individuals. At the same time he does not believe that immoralists—those dedicated to living immorally when moral behaviour seems to be a disadvantage to them—can be

persuaded to behave morally through rational argument. He thinks that those unwilling or unable to see and experience the benefits of living morally will remain unconvinced. In fact, he calls the reconciliation of morality and self-interest “hopeless” if taken to an extreme because no one can “expect to convince a clever immoralist that it pays everyone to act morally on every specific occasion in any sort of society.” (Kavka 2006:101)

This is why the means utilized to ensure that a moral norm is obeyed by creating an enforcement mechanism that would develop a system of punishments for violating the norm (see (Axelrod 1986, Coleman 1989). Development of the theory of a legal system makes the provision that violation of moral codes can be punished. When we think of legal issues the concept of rights finally becomes valid as something that can be legitimately enforced and protected.

This is the point at which moral or ethical philosophy sets the grounding foundation of political philosophy. One of the major challenges for political philosophy is the postulated impossibility of building a sound theory without a solid foundation in moral philosophy. For instance, John Finnis (2014) suggests that legal theory can not be adequately identified and pursued independently of moral theory. He assumes (and I agree with him) that without proven foundations in philosophy, assertions about politics or law can be wasted efforts, and therefore it is necessary to offer first some groundwork in moral philosophy to prove the basic premises of political theory. Lacking a

sound moral philosophy, it is difficult to justify any political or legal suggestions and initiatives as "good" or "right", since the concepts of "good" and "right" need to be properly defined beforehand. H.-H. Hoppe writes, that "the fundamental question of ethics—what am I here and now rightfully allowed to do and what not—is thus the most permanent, important, and pressing intellectual concern confronting man. Whenever and wherever one acts, an actor must be able to determine and distinguish unambiguously and instantly right from wrong." (Hoppe 1998:xxvii).

Understanding the difference between right and wrong lies at the core of social and political norms but it is also a fundamental concept for legal theory that deals with wrongdoers. Before proceeding to any discussion about how to treat wrongdoers it is essential to identify who the wrongdoers are (legal theory) and this question is intrinsically connected with the question of what "wrong" is (moral philosophy).

Political philosophy deals exclusively with justified (legitimate) use of force. It serves the purpose of legitimizing punishment where punishment is justified and it also explains why the goal of law should be to punish the wrongdoer for a bad action, but not to support or to encourage the good action. The reason for that lies in the very coercive nature of law-enforcement.

The ways in which punishment can be administered are rich and various, but all the typically-cited goals of punishment could be accommodated under the view of

punishment set above. Criminals could be incapacitated and deterred, even rehabilitated, perhaps, according to the victim's choice. Restitution could be obtained in a variety of ways, or, if the victim so chooses, retribution or revenge. Though it is difficult to determine precisely the boundaries of proportionality, justice requires that the aggressor be held responsible for the wrongdoing he has committed.

Conclusion

Moral philosophy helps us to understand what is good and what is bad. It gives an accurate account of what wrongdoing is (acting upon a person without his consent), and why wrongdoing is wrong. Moral norms are the means for the realisation of some ends. There is no method available for the appreciation of their goodness or badness other than to scrutinize their usefulness for the attainment of the ends chosen and aimed at. Moral norms deal with interpersonal, social interactions of humans and they provide rules and guidelines for people on how to treat each other. The goal of moral rules is to develop social standards of behaviour that will create circumstances in which the actions that a person considers others ought not to do upon him will be morally forbidden.

People need moral norms not as guidelines to follow in their decision-making, but as tools for creating social circumstances that reflect their best interests. Since it is in everyone's best interest not to have others act upon one against one's preferences, the adoption of a moral code based on consent

is a universal preference. Because we have our subjective preferences, we do not want others to initiate force or unwanted, unsolicited actions that we object to upon us - we oppose wrongdoing against us. This universally shared subjective preference is the reason why we want to develop and adopt a moral norm that prohibits wrongdoing. This is the bridge to prescriptive statement. Moral norms are devices that individuals create primarily to impose on others (in order to protect themselves from wrongdoers).

Once people realize their preference, the norm becomes internalized via culture and integrates into the realm of intersubjectivity created by communication. It is only possible because and insofar as people have the ability to communicate thus creating complex institutions allowing for more efficient cooperation.

Apart from adopting a moral code, society also requires means to ensure that the members chose to obey the norm. Legal systems and enforcement mechanisms create stimuli to conform to the norm in the forms of punishments for violating the norm. Society creates undeniable and indefinable consequences for individuals who chose wrongdoing.

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