

IT REALLY DOESN'T MATTER THAT MUCH

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I

Philosophers and their allies often take themselves too seriously when it comes to justifying their moral beliefs. Most of them think that some sort of ethical theory is needed to nail down, anchor, ground, or fix these beliefs. More than that, these philosophers and their friends think that they must find the right theory in the sense that only one right theory will do the job of fixing their beliefs in place. Failure in this task means that one's moral beliefs will float away in the mist. More specifically, what this means in a field such as military ethics is that such principles as proportionality and discrimination, such rules as last resort and good intentions or, for that matter, any judgments in military ethics, will have no validity at all unless the right fix is found. This is tantamount to saying that unless we get the right fix we will find ourselves in the hands of some bad people who are variously called relativists, subjectivists or skeptics.

Although there is something to be said for putting a moral theory in place in order to fix our moral beliefs, I will argue that it really doesn't matter that much what theory philosophers and others use. Theories aren't totally useless but they are overrated by their inventors. It is as if, to make an ad hominem appeal and thus argue a bit unfairly for a moment, philosophers need to present their theories as really important in order to justify the high salaries they are receiving from their institutions.

II

The suspicion that philosophers and their allies overrate ethical theories arises when we consider how successful each theory is in "proving" certain ethical principles. They are embarrassingly overly successful. If we think like utilitarians we can rather easily derive the

usual list of principles and rules in military ethics. When we take everyone's interests into account, killing those who are commonly called innocents in war, for example, turns out to be very *unutilitarian*. It is also very unutilitarian in a somewhat more selfish way to start aggressive wars. The famous Chinese philosopher Mo Tzu said it very nicely in an essay titled "Against Offensive Wars":

When a state which delights in aggressive warfare raises an army, it must have several hundred high officers, several thousand regular officers, and a hundred thousand soldiers, before it can set out. The time required for the expedition will be several years at the longest, several months at the least. During that time the leaders will have no time to attend to affairs of government, the officials no time to manage their departments of state, the farmers no time to sow and reap, the women no time to spin or weave. So in this case too the state will lose its fighting men and the common people will be forced to abandon their occupations. Moreover, there will be the damage and depreciation to the horses and chariots to consider, while if one fifth of the tents and hangings, army supplies, and weapons can be salvaged from the campaign, the state will be lucky. In addition, a countless number of men will desert or become lost along the way, or will die and end tumbled in a ditch due to the starvation, cold, and sickness caused by the length of the journey or the fact that supplies do not arrive in time.¹

But we do not have to be utilitarians to arrive at the usual principles and rules of just war theory.² Kantians who focus on the autonomy of the human being can arrive at pretty much the same point. War deprives many people, more often than not innocents, of their autonomy. Only wars that are a response to aggression, that is, wars that are a response to an

¹Mo Tzu, *Basic Writings*, trans. by Burton Watson (New York: Columbia University Press, 1963), pp. 54-5.

²Cheryl N. Noble, "Normative Ethical Theories," in *Anti-Theory in Ethics and Moral Conservatism*, ed. by Stanley G. Clarke and Evan Simpson (Albany: State University of New York Press, 1989). On page 57 Noble says: "In order for a theory not to be superfluous, we ought to be able to point to some conclusions not reachable except by its means and in the case of normative ethical theories we cannot. If utilitarianism tell us to free our slaves, so do our consciences or our 'intuitive' beliefs that all men are created equal."

evil, are justified.

So called virtue theorists can also create systems of military ethics that look very much like those of the utilitarians and the deontologists; as also can those theorists who spin their theories from moral intuitions.

What is going on here might be likened to verifying that there is a pig standing in front of me because I can see it, touch it, hear it and, most of all, smell it. So it might be argued that the kind of principles, rules and judgments that many of us make in military ethics are "verified" by the fact that various ethical theories get the same fix. This analogy can be questioned by reminding ourselves that although our various physical senses complement one another in telling us what is out there in the world, ethical (and metaethical) theories are thought of by many as being in opposition to one another. But whether this questioning makes sense or not (see below), it raises an interesting further question.

If these theories are in opposition to one another and if, as the people I will call strong theorists about theories claim that a best theory can be found, how do we find such a theory? Usually these strong theorists about theories list for us a set of criteria for finding the best theory. Here is one account in the form of a list of criteria:

1. **A theory should have the power to solve the moral problems we face and, as a part of that process, eliminate moral dilemmas.** The strong sense of this criterion would demand that the theory solve all problems; a somewhat weaker sense would ask that it at least solve most of them.
2. **A theory should present us with a decision procedure for resolving our moral problems.** That is, a theory should not merely give us answers but spell out how we should go about getting them.
3. **A theory should encourage us to make our moral convictions more explicit.**
4. **A theory should test our moral convictions for consistency.**

5. Related to #3 and #4: **A theory should present our convictions in a more systematic fashion.**
6. **It should also show in what situations and to whom our convictions apply beyond the scope of our normal attention.** That is, a theory should be powerful enough to apply to kinds of situations not envisioned when the theory was first developed.
7. **A theory should be articulated in such a way that the judgments made within it are objective.**³
8. **A theory should explain phenomena that no other theory can explain.**⁴ We can call this the uniqueness feature.

Other criteria could be added to this list; and perhaps some could be combined or characterized differently. But for the present purpose the list is adequate enough.

What is that purpose? It is to suggest that applying these criteria in ethics is such an unstructured matter that it is well-nigh impossible to identify a *best theory* the way it is in physics, chemistry and biology. In these three sciences it is always conceivable that a future theory will replace the best current theory. Yet in spite of this possibility, theories become accepted by these scientific communities as the best (for long periods of time). Witness the acceptance of quantum theory and the theory of relativity in physics, of the atomic theory in chemistry and of the double-helix theory in biology. Of course there are disagreements within each discipline as to how to interpret a particular theory. Still, within that disagreement there is wide acceptance of the theory itself. In contrast, there is no comparable theory or set of theories that has ever been so widely accepted within ethics.

³This list is a highly modified version of one presented by Robert B. Louden in "Virtue Ethics and Anti-Theory," *Philosophia: Philosophical Quarterly of Israel*. Vol. 20, Nos.1-2, July 1990, pp. 93-114.

⁴Noble, p. 57.

In ethics there are followers of one version or the other of utilitarianism, of Aristotle/Aquinas, of some contract model (e.g., Rawls, Gauthier), etc., on the philosophy side, and followers of Buddha, Jesus, Mohammed, etc., on the religion side. What seemingly characterizes theories of ethics on the philosophy side is that conversion to one position or the other is tied locally to those with whom one studies.⁵ Students of Rawls become Rawlsians, students of Hare and Brandt become utilitarians. Similarly what characterizes religious conversion has a lot to do with whom you associate socially. If you live in a Christian community of one sort or another, not surprisingly, you will have a high likelihood of becoming a Christian of one sort or another. Unlike in science, the criteria for accepting or rejecting an ethical theory do not seem to have a lot to do with determining why we do or do not believe in a particular ethical theory—although it seems we often pretend they do. For whatever reason, a kind of convergence of belief in a particular (correct) *theory* seems to be missing in ethics.

The situation is actually worse than I have portrayed it so far. There is not only endemic disagreement in that field on the level of ethical theory, there is not even agreement among those who seriously think about ethics concerning the importance of theory itself. Some thinkers in ethics reject the very idea of an ethical theory. Notice that (practically) no one does that in physics, chemistry and biology. Almost all specialists in these fields agree that theorizing is a worthwhile activity. But in ethics there are thinkers who proudly call themselves anti-theorists. Listen to the thoughts of two such thinkers. First Annette Baier.

Where do we have genuine and useful theories? Primarily in science^{3/4} but there we find a plurality of them primarily over time, rather than at a time. We

⁵Noble, p. 52: "And one begins to suspect that the hypothesis of the unity of morality has far more to do with the traditions of moral philosophy than any actual study of the relations between moral standards."

certainly do not find some engineers building bridges or spaceships by application of one theory, while others at the same time are applying another different theory.⁶

She adds a bit later:

We need psychological theories and social theories, and, if we are intent on political change, theories about political power and its working, and about economics. But do we need normative [i.e., ethical] theories, theories to tell us what to do, in addition to theories that present to us the world in which we are to try to do it?⁷

Her answer is 'No.' Now listen to Cheryl Noble:

Recognition of the lack of compelling power of theories established by this method is evident in that people will not in fact regard a theory as more reliable than a conflicting intuition and will jettison the theory and not the intuition—a perfectly rational attitude considering there is no reason to think the intuitions it accounts for are truer or more important than those it does not. In any case in which an intuition disagrees with a theory, therefore, in practice the theory must and will be questioned. And since it is universally admitted that this situation will arise with all theories, the theories in the end turn out to be no contribution to the moral life to speak of.⁸

III

So where do such thoughts concerning disagreement among ethical theorists and even the need for ethical theory leave us? It looks as if we are doing some serious flirting with those evil demons of relativism, subjectivism and skepticism mentioned earlier. To be sure, we are flirting with these demons but, I want to argue, we are not being seduced by them.

Look at it this way. The argument has been that we need to make a realistic assessment

⁶Annette Baier, "Doing Without Moral Theory," in *Anti-Theory in Ethics and Moral Conservatism*, ed. by Stanley G. Clarke and Evan Simpson (Albany: State University of New York Press, 1989), pp. 33-4.

⁷Ibid., p. 34.

⁸Noble, pp. 60-1.

of ethical theories. When we do, we come to realize that no ethical theory has, nor ever has gained, universal or near universal acceptance for any reason^{3/4}let alone as the result of the application of criteria for determining which theory is best. There is probably no real hope of ever finding the right ethical theory in the strong sense identified above. But this does not mean that if any one of the more popular theories is useful to us insofar as it satisfies some of the criteria for a good theory listed above, we should not employ it. Others of course may find a different theory more useful to them. But that should pose no problem so long as we don't take our own theory so seriously that we think of it to be provably and clearly the best of all possible theories (i.e., so long as we treat it as a weak rather than a strong theory). Let others try their different theories, utilitarianism, contract theory, what have you. If they do, as has been suggested already above, there is a good chance that the vast majority of them will arrive at pretty much the same down-to-earth moral conclusions as we have in applying our own. Indeed, there is a sense of security that comes when different theories, thought of as different approaches in ethics, all come to one point.

That is what happens in military ethics. It is little short of amazing to see someone like Michael Walzer who engages us in military ethics with a rights approach⁹ and James Childress who engages us in this study by citing a cluster of general intuitive principles¹⁰ come to such close agreement when they list their principles and rules of military ethics for us. The same is true of Richard Brandt and his ancient Chinese predecessor Mo Tzu who engage us in thinking about military ethics from the utilitarian perspective.¹¹ Others with a more Kantian twist to

⁹Michael Walzer, *Just and Unjust Wars*, (New York: Basic Books Inc., 1977).

¹⁰James Childress, "Just War Theories: The Bases, Interrelations, Priorities, and Functions," in *War, Morality and the Military Profession*, 2nd ed., ed. by Malham Wakin (Boulder, CO: Westview Press, 1986), pp. 256-76.

¹¹Richard B. Brandt, "Utilitarianism and the Rules of War," in *War, Morality and the Military Profession*, ed. by Malham Wakin (Boulder, CO: Westview Press, 1986), pp. 393-

their thinking, emphasizing as they do the concept of autonomy, make similar claims in the area of military ethics.¹² Still others appeal to a religious tradition.¹³ The theories are all different, and thus the process of thinking in which these various thinkers engage, sound different. But their conclusions are not.

Permit me to make three disclaimers concerning what I have been saying about moral theory. First, I am not saying that all theories of ethics yield roughly the same principles and rules in military ethics and thus do not satisfy the uniqueness criterion for a good theory. No doubt there will be some that yield significant variants of the traditional principles and rules with which we are familiar. Perhaps still others will yield ethical principles radically different from the familiar ones -- ones that, for example, veer in the direction of pacifism. What I am saying is that a surprising number of popular ethical theories do, in fact, arrive at roughly the same conclusions and, insofar as they do, it appears that what ethical theory one holds isn't so very important after all.

Second, I also don't want to be taken as having said anything that touches those thinkers and nations who seek their own self interest exclusively and thus are not concerned at all with ethical matters. These sorts of amoral creatures are not affected by anything I have said. In truth, it is not clear how one can reach these people in order to make them moral. However, I am trying to affect the thinking of those who operate within the moral realm. And my message to them is this: Do not let your adherence to your own ethical theory fool you into thinking that theoretical disagreements with others are important. What is important is where

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¹²Jeffrie G. Murphy, "The Killing of the Innocent," in *War, Morality and the Military Profession*, 2nd ed. edited by Malham M Wakin (Boulder, CO: Westview Press, 1986), pp. 341-64.

¹³James Turner Johnson, *Just War Tradition and the Restraint of War: A Moral and Historical Inquiry*, (Princeton: Princeton University Press, 1982).

your theory takes you. If, then, it turns out that my quite different theory gets me to the same point as yours does, let's not worry about these difference. Instead, let us practice what might be called theory tolerance.

Third and finally, I do not want to be taken as suggesting that my arguments for theory tolerance are proofs. All I have done, and all I know how to do, is merely characterize a different way of looking at theories for your consideration. That way says that, on the one side, ethical theories cannot be justified with the same firmness that scientific theories can be. On the other side, it also says that when we come to the realization that ethical theories are less firm when compared with scientific counterparts, we need not lapse all the way into a kind of skepticism. We need not, as Baier and Noble do, claim that ethical theories are totally worthless. They can be useful by helping organize our thinking, giving us a kind of explanation of our views, and extending our thinking beyond the realm it was originally intended to explain, and perhaps do other things as well. Further they can be useful, perhaps comforting is a better word here, insofar as we see others, with different theories from our own, arrive at the same conclusions about concrete ethical matters as we do.