

MORAL PRINCIPLES AND MORAL JUDGEMENT

Introduction

Over the last two decades traditional, principle-based moral theories have come under attack from several quarters. The most radical attack has been launched by so-called moral particularists according to whom “moral principles are at best useless, and at worst a hindrance, in trying to find out which is the right action.”¹ Particularists argue that the moral person is a person of empathy, sensibility, virtue and judgement, rather than a person of principle. In this paper I show that this is a false dichotomy. The person of good moral character and judgement *is* a person of principle. I offer a principle-based model of moral judgement.

I will start by offering an analysis of why traditional principle-based ethics have been thought to be in conflict with moral judgement. After a preliminary note about the relation between philosophical accounts of moral judgement and empirical moral psychology, I will then present my model of the capacity of moral judgement.

1. Traditional principle-based ethics and moral judgement

Particularists are not the only ones who have attacked traditional, principle-based, ethics for their alleged failure to account for moral judgement. Virtue ethicists, for example, who focus on the notion of practical wisdom have complained that “moral philosophy’s customary focus on action-guiding rules and principles [...] [has] masked the importance of moral perception to a full and adequate depiction of moral agency.”²

Many of those who accuse traditional generalists of ignoring the importance of judgement base their criticism on an unrealistic conception of what moral principles are

¹ David McNaughton: *Moral Vision. An Introduction to Ethics*. Oxford 1988, p. 190. McNaughton’s view has changed considerably. See McNaughton: ‘An Unconnected Heap of Duties?’ In: *The Philosophical Quarterly* 46 (1996), pp. 433-447; McNaughton and Piers Rawling: ‘Unprincipled Ethics.’ In: *Moral Particularism*. Edited by Brad Hooker and Margaret Olivia Little. Oxford 2000, pp. 256-275.

² Lawrence Blum: ‘Moral Perception and Particularity.’ In: *Ethics* 101 (1991), pp. 701-725, p. 701. Also see Martha C. Nussbaum: *The Fragility of Goodness. Luck and Ethics in Greek Tragedy and Philosophy*. Revised edition. Cambridge 2001, p. 310.

and what they can accomplish. They think of moral principles as algorithms, where an algorithm is understood as a purely mechanical decision-procedure that can be applied without any insight, imagination or judgement, and which provides us with determinate answers to all cases that fall under it. Charles Larmore, for instance, asserts that Kantians and utilitarians have been at one “in seeking a fully explicit decision procedure for settling moral questions.”³ He claims that as a result “they have missed the central role of moral judgement.”⁴ David McNaughton assumes that the aim of traditional principled ethics is to find “a set of rules which could be applied by anyone, whatever their sensitivity or experience, to discover the right answer.”⁵ He then argues that moral judgement “cannot be replicated by the use of a decision procedure which could be grasped by someone who had no appreciation of what was at stake.”⁶ Similarly, John McDowell points out that there are cases “in which a mechanical application of the rules would strike one as wrong.”⁷

But these are things no sensible generalist would deny. Neither utilitarians nor Kantians, for example, think of moral principles as algorithms. John Stuart Mill noted that there “is no difficulty in proving any ethical standard whatever to work ill, if we suppose universal idiocy to be conjoined with it.”⁸ Similarly, Brad Hooker emphasises that:

Rule-consequentialists are as aware as anyone that figuring out whether a rule applies can require not merely attention to detail, but also sensitivity, imagination, interpretation, and judgement.⁹

Kantians are equally keen to stress the importance of judgement. Kant himself pointed out that we can have no algorithm for judgement, since every application of a rule would itself need supplementing with further rules.¹⁰ Onora O’Neill argues that moral principles

³ Charles E. Larmore: *Patterns of moral complexity*. Cambridge 1987, p. 12.

⁴ Ibid.

⁵ McNaughton: *Moral Vision*. p. 199.

⁶ Ibid.

⁷ John McDowell: ‘Virtue and Reason.’ In: *Mind, Value, and Reality*. Cambridge, Mass. 1998, pp. 50-73, p. 58.

⁸ John Stuart Mill: *Utilitarianism*. Edited by Roger Crisp. Oxford, New York 1998, p. 70.

⁹ Brad Hooker: *Ideal Code, Real World. A rule-consequentialist Theory of Morality*. Oxford 2000, p. 88.

¹⁰ Immanuel Kant: *Critique of Pure Reason*. A 132-3 / B 171-2.

do not provide us with an “auto-pilot for life”¹¹ and that “[j]udgement is always needed in using or following – and in flouting – rules or principles.”¹²

So given that the vast majority of moral generalists acknowledge that moral principles do not apply themselves and that in following them judgement is always needed, why do so many of their critics picture moral principles as algorithmic decision procedures? The thought seems to be that by acknowledging the importance of moral judgement one diminishes, and even calls into question, the importance of moral principles. So – the argument might go – either moral principles function like algorithms and provide us with determinate answers, or they are of no importance at all. Utilitarians, Kantians and other defenders of traditional, principle-based, ethics admit that knowledge of moral principles is not sufficient for sound moral verdict and action, but why should we think that it is necessary or even helpful? If we need moral judgement to apply and follow moral principles, why should we not use this faculty to judge particular moral cases directly? Particularists hold that moral judgement not merely *supplements* but *supplants* principles. They insist that we can, and should, make moral decisions on a case-by-case basis without any principles. For instances, McDowell claims that:

Occasion by occasion, one knows what to do, if one does, not by applying universal principles, but by being a certain kind of person: one who sees situations in a certain distinctive way.¹³

Moreover, many particularists argue that moral principles are not only made redundant by moral judgement, but that they also distort our judgement. In this context Jonathan Dancy remarks that “the imposition of principles on an area that does not need them is likely to lead to some sort of distortion.”¹⁴ It is said that thinking in terms of moral principles blunts moral sensibilities. Particularists believe that it leads to people ‘sticking to their principles’, rather than being sensitive to what is called for in the particular case.¹⁵ Most generalists acknowledge that overreliance on moral principles can be the cause of bad and even disastrous moral decisions. This is why moral judgement is so important. However, although defenders of principled ethics stress the importance of moral judgement, they

¹¹ Onora O’Neill: *Towards Justice and Virtue. A constructive account of practical reasoning*. Cambridge 1996, p. 78.

¹² Ibid.

¹³ McDowell: ‘Virtue and Reason.’ p. 73.

¹⁴ Jonathan Dancy: *Ethics without Principles*. Oxford 2004, p. 2.

¹⁵ McNaughton: *Moral Vision*. p. 203.

often have disappointingly little to say about it. What is moral judgement, and what is the relation between moral judgement and moral principles?

Before I can answer this question, there is a worry that needs to be briefly addressed. The worry is that questions concerning the relation between moral principles and moral judgement are to be settled in the psychological laboratory, rather than in the philosophical armchair.

2. Theories of moral judgement and empirical evidence

There is a fast growing number of empirical moral psychologists, and one might think that they are better suited than traditional moral philosophers to tackle questions about moral judgement and the role of moral principles.¹⁶ It is, therefore, important to be clear about the nature of the claims I am making in this paper. I argue that moral judgement *can* and *should* be principle-based. The ‘can’ is primarily conceptual. That is, my aim is to outline a model of moral judgement that is internally consistent and convincing. However, since I want to make the additional normative claim that moral judgement *should* be principle-based, this model also has to be at least empirically possible. It would be futile to make normative claims about how we should reason and act as moral agents if it were empirically impossible for us to reason and act in that way. The model of principled judgement presented in this paper, therefore, also has a descriptive element. I claim that we can, and that at least some of us do, reason and act in the principle-based ways I describe. The purview of my model of principle-based moral judgement is restricted to processes that are accessible to conscious introspection. The descriptive claims are mainly based on our phenomenological experience of moral judgement, but occasionally I will also refer to the recent empirical literature on the psychology of moral judgement.

¹⁶ See for example Jonathan Haidt: ‘The emotional dog and its rational tail.’ In: *Psychological Review* 108 (2001), pp. 814-834; Joshua Greene and Jonathan Haidt: ‘Where (and how) does moral judgement work.’ In: *Trends in Cognitive Sciences* 6 (2002), pp. 517-523; Shaun Nichols: *Sentimental Rules. On the Foundations of Moral Judgment*. Oxford 2004; Jesse J. Prinz: *The Emotional Construction of Morals*. Oxford 2007; Simone Schnall, Jonathan Haidt, Gerald L. Clore and Alexander H. Jordan: ‘Disgust as embodied moral judgment.’ In: *Personality and Social Psychology Bulletin* 34 (2008), pp. 1096-1109; Ron Mallon and Shaun Nichols: ‘Rules.’ In: *The Moral Psychology Handbook*. Edited by John M. Doris and the Moral Psychology Research Group. Oxford 2010, pp. 297-320.

3. The capacity of moral judgement

The term ‘judgement’ can refer to the ability to judge, the activity of judging and the product of this activity. My focus here is on the ability or capacity to judge. Although particularists frequently accuse generalists of ignoring the importance of judgement, they themselves have little to say about what it is for a person to have a capacity for moral judgement. Dancy, for instance, remarks:

[O]ur account of the person on whom we can rely to make sound moral judgements is not very long. Such a person is someone who gets it right case by case. To be consistently successful, we need to have a broad range of sensitivities, so that no relevant feature escapes us, and we do not mistake its relevance either. But that is all there is to say on the matter. To have the relevant sensitivities just is to be able to get things right case by case.¹⁷

This is not very helpful. We need to know what kinds of sensibilities are required for sound moral judgement and how we can develop these sensibilities. So what alternative do generalists have to offer?

A person of good moral judgement possesses sensitivity, experience and discernment. That is, she is sensitive to the needs of others and the details of the situations she finds herself confronted with. She is good at recognising what has to be done and what is the best way of doing it. These are qualities a good moral agent – a person of moral character – aims to cultivate. How considerate and sensitive people are to the needs of others, how careful they examine the details of a particular case and think about what to do, depends crucially on their character. The capacity of moral judgement is thus closely linked to what kind of person we are, that is, our character. Moral principles are an essential part of our moral character. Let me explain.

The basis of an individual’s moral character is normally formed in childhood through socialisation and moral education. Principles play a crucial role in the education of children. Some particularists are prepared to concede that moral principles can provide useful pedagogic tools.¹⁸ However, they emphasise that once we have reached moral maturity we will not need these principles anymore. According to particularists, adherence to moral principles is a sign of moral immaturity. By contrast, I argue that

¹⁷ Dancy: *Moral Reasons*. Oxford 1993, p. 64.

¹⁸ See McNaughton: *Moral Vision*. p. 202 f.; Jay L. Garfield: ‘Particularity and Principle: The Structure of Moral Knowledge.’ In: *Moral Particularism*. Edited by Brad Hooker and Margaret Olivia Little. Oxford 2000, pp. 178-204, p. 199 ff.

moral principles are important not only for the moral novice but also for the morally experienced person. An individual will typically challenge and qualify at least some of her moral principles as she grows older, gains life experience and reflects on moral questions. She will endorse them as *her* principles and they will become a part of her moral character. During the process of individual moral development moral principles change from being external pedagogic tools and precepts to internal long-term commitments.

What do I mean when I say that moral principles function as internal long-term commitments? Like other long-term plans and policies, moral principles structure the way we live our lives. Consider the following example of taking on a non-moral commitment. Someone who plans to become a professional athlete will lead her life in a certain way. She will schedule her social life around her training, follow a particular diet, etc. Plans concerning ends embed sub-plans concerning means and preliminary steps.¹⁹ Forming and pursuing these sub-plans is a necessary part of carrying out our long-term plans successfully. If an agent claims to have a long-term plan and does nothing to implement it, we may eventually conclude that she has a wish rather than a plan. The same holds true for moral principles. By adopting a set of moral principles an agent commits herself to live her life in a certain way. She will try to structure her life and world in a way that allows her to jointly satisfy all of her moral principles. Principles of duty do not only require that agents seek to enact certain act-types, they also require to think about the means and circumstances necessary for the joint fulfilment of these duties. A duty of nonmaleficence and a duty of truthfulness imply a duty actively to avoid situations in which we have to lie in order to prevent serious harm or in which we have to harm someone by telling the truth. For example, we might have an obligation to avoid involvement in dubious projects and an obligation to try working towards more just institutions. So endorsing a moral principle is not only a matter of performing a particular act-token in a particular situation, but of living and thinking in a certain way.

Understood as internalised long-term commitments, moral principles play two central roles in the constitution of an agent's character. First, they form an agent's moral

¹⁹ See Michael Bratman: *Intention, Plans, and Practical Reason*. Cambridge, Mass. 1987. p. 29 ff.

sensibilities and experience. Second, moral principles are crucial for an agent's identity and unity over time. Let me start with the first point.

A person of principle tries to structure her life and world in a way that allows her to jointly satisfy her moral principles. She will try to avoid situations where her principle of beneficence conflicts with her principle of justice, she will aim to speak the truth without being cruel, to help others without being patronising, and so on. She will be on her guard against situations in which she has to violate her principles. In doing so, the agent will improve her moral sensibilities. She will become better in foreseeing the consequences of her and other people's actions. Over time she will become more sensitive to the needs of others and details of the situations with which she finds herself confronted. She will become better at seeing what has to be done and what is the best way of doing it. That undertaking certain commitments shapes an agent's experience and improves her sensibilities is a common phenomenon. An entrepreneur committed to make lucrative investments, for example, might recognise a promising business idea in something that few others would take seriously. Parents committed to the security of their toddler will see hazards where others just see an open bottle of detergent, plug sockets, or a staircase. An experienced salesman who is committed to a good sales performance and the happiness of his customers, can sometimes see what a customer wants, and how much he is prepared to spend, at the moment the person walks into the shop. In all these cases trying to live up to their particular commitments has led agents to develop and cultivate special sensibilities. By adopting and internalising moral principles as long-term commitments moral agents develop and cultivate their moral sensibilities.²⁰ As a result a good moral judge will sometimes be able to 'just see' what is the right thing to do.

In some respects this picture of moral judgements is not too far away from some of the claims that particularists make. What is required for sound moral judgement, according to many particularists, is "a way of seeing, a way of being sensitive to the moral facts."²¹ For particularists moral judgement is a skill of discernment.²² A good moral judge is able to see which features of a situation are morally relevant and what

²⁰ This seems to fit well with the empirical claims of some moral psychologists. See Prinz: *The Emotional Construction of Morals*. p. 272.

²¹ McNaughton: *Moral Vision*. p. 205.

²² Dancy: *Ethics without Principles*. p. 143.

course of action they prompt. When turning the corner of a street and encountering someone who has fallen over, for example, we can see at once that we should offer to help.

However, while particularists take the ability to ‘just see’ what is the right thing to do as evidence for the alleged redundancy of moral principles, I argue that this ability is itself principle-based. A person of good moral judgement will often ‘just see’ that someone needs help, and it will be obvious to her what course of action to take. In such cases she will not need to treat her moral principles as premises from which to draw certain conclusions. But this does not mean that her moral principles have, therefore, become superfluous. Let me illustrate this point with one of the non-moral examples mentioned above. An experienced entrepreneur will not abandon her principle of making lucrative investments because she can ‘just see’ whether or not something is a lucrative business idea. This would be absurd. The same holds true for the moral case. Being able to ‘just see’ that someone needs help does not render the principle of beneficence superfluous. Rather, it is a sign of the moral agent’s ability to fulfil or implement the principle.

A similar point can be made with regard to our emotional responses to certain actions or situations. Sometimes we seem to ‘just feel’ that an action is right or wrong. We often feel anger, for example, when we experience injustice. Particularists might view these cases as evidence for their claim that moral verdicts do not need to be principle-based. However, some moral psychologists who have inquired into the role of emotions in the process of moral judgement have come to a very different conclusion. Shaun Nichols, for instance, claims that “core moral judgement implicates both an affective mechanism and an internally represented set of rules.”²³ According to Nichols, moral judgements are based on ‘sentimental rules’, i.e. “rules prohibiting actions that are independently likely to elicit strong negative affect.”²⁴ Another moral psychologist who draws a close connection between moral emotions and moral principles is Jesse Prinz. Prinz claims that if you have internalised a moral rule against, say, incest, you have a moral sentiment toward incest in long-term memory. This standing attitude toward incest

²³ Nichols: *Sentimental Rules*. p. 29.

²⁴ *Ibid.* p. 18.

becomes an occurrent moral judgement when you think about someone committing an act of incest. You experience disgust and this feeling constitutes your judgement that the act in question is wrong.²⁵

So far I have argued that in trying to fulfil moral principles understood as internalised long-term commitments an agent gains experience and develops her moral sensibilities. By adopting and trying to enact a principle of beneficence alongside her other moral and non-moral commitments, an agent will become more sensitive to the needs of others and gain experience about how best to help them. Over time the agent will improve and develop her capacity of judgement. An agent could not develop and cultivate her moral sensibilities, and hence her capacity of judgement, without conceiving of herself as an agent, i.e. as having a certain identity and unity over time. This leads me to the second central role which moral principles play in the constitution of an agent's character. I contend that as internalised long-term commitments moral principles are crucial for an agent's identity and unity over time. I will emphasise two connections between moral principles and an agent's identity, but I do not claim that these are the only possible connections.

Firstly, moral principles can provide forward looking psychological connections between an agent's present self and her future self. These psychological connections support the agent's identity over time. Adopting a set of moral principles means taking on certain long-term commitments, and to take on a long-term commitment is to form a standing intention to act in certain ways in possible future situations. As internalised long-term commitments, moral principles thus give rise to a psychological connection between an agent's present intentions and the future execution of these intentions.

Secondly, moral principles are crucial to an agent's identity because they provide her with a way of constructing and understanding herself as a certain person. Moral psychologists confirm this point. Prinz, for instance, remarks that by internalising moral principles "[m]orality becomes a central part of our self-conceptions."²⁶ Moral principles offer an individual a way to define herself as a person with certain principles.²⁷ For

²⁵ Prinz: *The Emotional Construction of Morals*. p. 102.

²⁶ *Ibid.* p. 306.

²⁷ This is a thought that can be found in Kant's moral philosophy and has recently been developed by Christine Korsgaard. According to Korsgaard, "the principles of practical reason are principles by means of

example, someone might understand herself as a person who keeps her promises, values honesty and is passionate about working towards what she believes to be a fairer society.

Moral principles are not the only long-term commitments that form an agent's identity and unity over time. A number of authors have recently stressed the importance of plans for personal identity and self-understanding. Forming a plan is taking up a commitment. As Michael Bratman puts it, "[i]n settling on a prior plan of action, one commits oneself to the plan."²⁸ An important subcategory of plans are policies, i.e. plans that one always has. In contrast to other plans, policies like 'Do not drink and drive' or 'Go to the dentist at least once a year' are perpetually in force. No matter how often we fulfil these plans, they still commit us to future fulfilments. According to Bratman, plans and policies constitute and support psychological connections and continuities that are central to an agent's persistence over time.²⁹ From this, it is only a small step to argue, as I did above, that to adopt a set of moral principles is to form certain standing intentions that support an agent's cross-temporal identity. While Bratman emphasises the role that plans play in the formation of personal identity over time, David Velleman has recently pointed out the importance of plans for an agent's self-understanding. Velleman argues that by forming long-term plans and adopting policies an agent gains a better understanding of herself.³⁰ Bratman and Velleman offer elaborate theories of personal identity and agency, and it would go beyond the scope of this paper to discuss these theories in any detail here. What I hope to have shown is that there is a strong case to be made for assigning long term commitments – including moral principles – an essential role in the constitution of a person's conception of herself as an agent, and hence her capacity of judgement.

However, I would like to go one step further than this. I want to argue that among a person's various long-term commitments moral principles are of special importance. Many non-moral plans and policies are restricted to certain domains of an agent's life.

which we constitute ourselves as unified agents." (*Self-Constitution. Agency, Identity, and Integrity*. Oxford 2009, p. 25. Also see Korsgaard: 'Personal Identity and the unity of agency: A Kantian response to Parfit.' In: *Creating the Kingdom of Ends*. Cambridge 1996, pp. 363-397.)

²⁸ Bratman: 'Reflection, Planning and Temporally Extended Agency.' In: *Structures of Agency*. Oxford 2007, pp. 21-46, p. 26.

²⁹ Ibid. p. 21 ff.

³⁰ Velleman: *Practical Reflection*. p. 304 ff.

For example, a person might have a strict policy of punctuality in her professional life, but care little about being on time when it comes to private parties. The domain of moral principles cannot be restricted in this sense. A good moral agent will stay committed to and try to enact her moral principles in all areas of her life. For example, a good moral agent will not treat her principle of honesty or justice as something that she values and tries to implement in her private life, but which she brackets as soon as she enters the business world. Unlike principles of business etiquette or profit maximisation, or football rules, moral principles are widely believed to apply to all areas of an agent's life. Moral principles help to form the core of an agent's character, i.e. the part of a person's character that remains the same across the different areas of their life. Most people have to play various different roles in their daily life and they have to act and think differently in order to fulfil these different roles adequately. Moral principles offer a way to unify these various roles, or rather to build and retain a sense of self that transcends them.

According to the conception of the capacity of moral judgement that I have proposed here, moral principles and moral judgement are deeply intertwined. Instead of conceiving of moral judgement as a mysterious capacity that needs to be somehow added to moral principles, I suggest that we think of judgement as being itself principle-based. Moral principles are essential to the capacity of moral judgement. They fulfil this role as internalised long-term commitments.

This picture of moral principles contrasts with an understanding of moral principles as external devices for case-by-case decision-making. John Dewey, for instance, claims that a moral principle "is a tool for analysing a special situation."³¹ According to Dewey, "principles are intellectual; they are the final methods used in judging suggested courses of action."³² I do not deny that moral principles have important intellectual functions. What I want to deny, however, is that moral principles need to fulfil these functions as external tools. Thinking of moral principles as tools leads one to think of them as something that is separate from the capacity of judgement. Being in possession of a set of tools is of little use if one does not know how to use them. It requires experience and

³¹ John Dewey: 'Ethics. Part II: Theory of the Moral Life.' In: *John Dewey. The Later Works, 1925-1953*. Vol. 7 (1932). Edited by Jo Ann Boydston and Barbara Levine. Illinois 1985, p. 280.

³² *Ibid.* p. 280.

judgement to use tools. Moreover, some tools are useful only for the novice and should be dispensed with once the person has mastered the skill in question. Think, for example, of training wheels for children bicycles. Moral principles are not like this. They are essential for the moral novice as well as for the moral expert and they are constitutive of the capacity of judgement rather than something that needs to be supplemented by it.

4. Conclusion

Moral principles are best understood as internalised long-term commitments through which a person can construct and understand herself as an agent, as well as form and develop her moral sensibilities. So understood moral principles are constitutive of the capacity of moral judgement. The traditional polarisation between moral principles and judgement is untenable because judgement draws essentially on principles. Moral generalists can thus not only acknowledge the importance of moral judgement, they also have the resources to develop a plausible theory of the capacity of moral judgement. This gives them an important advantage over moral particularists who, despite seeing themselves as the advocates of moral judgement, have so far failed to provide a plausible account of its nature and development.

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