Normative Ethical Theory in the 20th Century

Normative Ethical theory underwent a period of refinement in some areas and proliferation in others during the 20th century. Theories prominent in the 19th century, such as Utilitarianism, underwent refinement in light of criticisms; other approaches, such as normative intuitionism and virtue ethics, were developed in new directions, ones that reflected the sophistication of analytical techniques developed by philosophers in the 20th century, particularly in ordinary language philosophy. The middle of the 20th century was marked by an interest in conceptual analysis and what could be revealed about our concepts in the analysis of 'ordinary' language appeals to those concepts. For example, Gilbert Ryle argued that the hope of clearing up our concepts via formalizing them was futile, and instead the task of philosophy was to clear up confusions present in the ordinary use of concepts, concepts employed by ordinary people as well as specialists in a given area.

Normative ethicists in the very early part of the 20th century had not yet adopted a 'scientizing' attitude to philosophy. They believed, for example, that one could rely on intuition in formulating ethical theories.[1] Theorists in the early part of the century were also optimistic about the prospects of systematizing normative ethics in a way that would be faithful to our common sense normative judgments. This began, largely, with a critical look at Utilitarianism.

Utilitarianism

At the opening of the 20th century, in the Western tradition, normative ethics was dominated by Utilitarianism. Though the work of the Classical Utilitarians, Jeremy Bentham and John Stuart Mill, had been rejected by philosophers dissatisfied with its commitment to hedonism, most writers worked within the tradition articulating variations on the basic structure. In *Principia Ethica*, for example, G. E. Moore developed Ideal Utilitarianism. Though Moore was best known for his work in meta-ethics – work that appeared to influence later non-cognitivists such as Ayer and Stevenson – his work in normative ethics is also notable.[2] He shared with the classical utilitarians the view that value is agent-neutral, though he differed on the specific nature of intrinsic value. Even

Mill's modified hedonism, which incorporated various perfectionist intuitions to avoid some of Bentham's problems, was attacked as too narrow.

Moore's discussion of intrinsic value influenced later work in value theory. Notably, people were interested in how it is that we can make determinations of intrinsic value, and Moore's work led to improvements over how to identify intrinsic value. Earlier methodologies relied on a finding of explanatory primacy. Try to think of 'good' things, and then ask 'what makes x good?'. Good is then reducible to the terms of explanation. The hedonists believed that this method reduced good to pleasure and avoidance of pain. But Moore challenged this with another test – the isolation test. He believed that intrinsic value, whatever it is, must be an intrinsic *property*. A pleasure state with a bad object is not intrinsically good. If it were, then we would be committed to judging it good in the absence of bad effects (i.e. in isolation from the normal consequences of, for example, sadistic pleasure, or pleasure in causing pain to others). Since this is not the case, pleasure is not the sole intrinsic good. Consciousness of pleasure is, at best, a slight intrinsic good on his view.[3]

Moore's attack on Hedonism set the stage for a surge of interest in the issue of intrinsic value. Moore himself believed that 'good' was unanalyzable. This was hotly contested. Writers shortly after Moore, such as W. D. Ross and A. C. Ewing, both regarded the good, or intrinsic value, as analyzed in terms of what is worthy of being valued – so they give an attitude-based account. But the issue of value became a major topic of discussion in the 20th century, leading to numerous ways of avoiding the problems raised for hedonism. These analyses can be broadly classified as subjective or objective. Subjective accounts hold that what has intrinsic value must be subjective – such as pleasure, or preference or desire satisfaction. Some argue that, on the contrary, it must be objective – for example, the actual embodiment of a virtue state regardless of the agent's beliefs and desires. Each approach to value has its own set of problems – Derek Parfit, for example, showed the difficulty of coming up with a theory of value that could satisfactorily avoid serious problems, such as the repugnant Conclusion, the non-identity problem, among others.[4]

Value is just one component of consequentialism (indeed, it is a distinct issue, though of significant importance to particular consequentialist accounts of rightness).

The other component is the approach to value taken by the theory. For the classical utilitarians, that approach was maximization, and Moore's work did not attack this aspect of the theory. However, other writers such as Ross and Prichard would attack this aspect of the theory by holding that moral norms are, in fact, pluralistic and, further, that maximizing along a single parameter is mistaken (see below).

The attacks on classical utilitarianism led to more sophisticated developments of the theory in the latter half of the 20th century. For example, R. M. Hare developed a sophisticated two-level approach to Utilitarianism (1981). Hare's insight involved recognizing that human beings are flawed reasoners. If we were better reasoners, if we could make reliable decisions quickly, and impartially, then it might make sense to consciously employ the principle of utility on every occasion we are called on to make a moral decision. However, this is not compatible with a realistic view of human nature. Hare dubbed the perfect reasoner the "Archangel" – what we ought to do, what the right thing to do in the circumstances, is what the Archangel would advise one to do. But people don't have access to this perspective. Hare distinguishes between two levels of moral thought – the intuitive and the critical. Given our limitations in most contexts it pays to rely on the intuitive level – these are norms we've inculcated which rest on prima facie principles, ones that are overridable, but which generally lead to the best results. Of course, in situations where we have plenty of time, and access to a lot of information, relying on these principles rather than consciously applying the principle of utility itself, may not be the best option. Sometimes we will need to adopt the critical perspective of consciously employing Utilitarianism to examine our intuitive commitments, and whether they properly apply in a given case.

Hare's account responds to a variety of earlier criticisms. Note that on this view one is not supposed to think consciously in Utilitarian terms, unless, of course, that produces the best result in the specific case at hand. Indeed, it is better for most people to rely on intuitive principles. Hare's account explains why doing the right thing may not feel right. When intuitive principles conflict – such as one ought not lie and one ought to be loyal to one's friends – because there is a commitment to these principles a person who violates one will feel bad about it, even though the choice may have been the right one. Hare's account explains why we might actually blame someone for doing the right

thing, because we may feel that the action reveals a lack of commitment to the best intuitive level principles.

Another development was clearer articulation of the rule-utilitarian alternative to act-utilitarianism. Act-utilitarianism holds that the right action is the action that produces maximally good effects. Rule-utilitarianism holds that the right action is the action performed in accordance with a system of rules that maximize the good. Rule-utilitarianism is an indirect type of utilitarianism, since the rightness of an action is not determined by its own effects but, rather, by the effects of something else associated with the action (in this particular case, a system of rules). The advantage of this approach is that it is seen to avoid the problems to act utilitarianism in that it will not recommend all actions that maximize utility. In principle, the act utilitarian must concede that it may be obligatory to kill an innocent person to save the lives of even more innocent people. The rule utilitarian, on the other hand, is not committed to this at all, since killing an innocent person would violate a rule in the best system of rules. Richard Brandt spelled this out in his *A Theory of the Good and the Right*. There he argues that 'right action' is best thought of in terms of the question: "Which actions would be permitted by the moral code which a fully rational person would most strongly tend to support, for a society in which he expected to live a lifetime?"[5] There are many objections to this approach. Some argue that, when the rules are fully specified so as to be plausible, the account collapses into act utilitarianism. To avoid the collapse, the rule utilitarians need to insist on no violations of the rules, no matter the consequences, and this seems like a form of irrational 'rule-worship.' Rule utilitarians argue that one can avoid this unpalatable result by keeping the rules of the system fairly simple, so that the inculcation costs are fairly low, while allowing for an 'avoid disaster' clause in the account. Thus, one can break the rule 'Don't kill an innocent person' if that is necessary to avoid a 'disaster.' [6]

Hare and Brandt weren't alone in developing more sophisticated versions of Utilitarianism, though writers were moving away from explicitly Utilitarian views and embracing a more general form of consequentialism – not committed, for example, to subjective value theory nor even to maximization of the good.[7]

Reasons for challenging utilitarianism came from without the theory as well as from within. In her essay "Modern Moral Philosophy" Anscombe criticized the theory

for its seeming recommendation of vicious actions in virtue of their promotion of good effects. This is the criticism that Utilitarianism, or consequentialist approaches in general, are basically incompatible with justice since the consequentialist justifies actions on the basis of reasons that are forward looking. This means that, in principle, consequentialists would be open to 'punishment' of the innocent if the effects of the 'punishment' were good enough. This, on Anscombe's view, is completely outrageous and places the theory beyond the pale. Her work in *Intention* had lent much weight to these sorts of criticisms. There she greatly advanced discussion of philosophical psychology in ways directly relevant to normative ethics, and in ways used to show that consequentialism, on her view, was inadequate in its failure to account for reasons for action that are essentially backward looking. Some contemporary consequentialists have tried to develop accounts that would avoid this particular problem. Fred Feldman, for example, believes that consequentialism can be so structured that past events are taken into consideration in providing justification for action.[8]

Virtues

Though on my view Anscombe was not advocating a return to virtue ethics, there is no doubt that "Modern Moral Philosophy" generated much renewed interest in virtues and directly led to the investigation of this theoretical alternative. One feature of the latter part of the 20th century is that increased attention was focused on developing a virtue ethics as an alternative to Consequentialism and Kantian Ethics. Some dissatisfaction with these approaches, however, had more to do with a general dissatisfaction with moral theory. Bernard Williams, for example, was a harsh critic of Utilitarianism but was not arguing in favor of another *moral* theory, at least as moral theory is traditionally understood as providing an account of what makes an action right or wrong, what principles we should live by, and what gives moral praise and blame their genuine normative force.[9] Williams was suspicious of morality, not just particular representations of morality. His view was similar to Anscombe's in that he felt that normative ethicists were assuming an authority to terms like 'morally right' that they were not entitled to. There were very many points that Williams made against the

standard way of conceiving morality, and I cannot discuss all of them here. However, an important point of criticism was his view that morality is viewed, mistakenly, as *inescapable*.[10] This has the unfortunate tendency to make everything into an obligation – to expand the scope of morality.

On my view, the mistake Williams makes is to conflate morality with moralism. There's no doubt that people cite moral reasons inappropriately. They do so in part to harness the 'overridingness' of moral reasons to their own advantage. But this is, itself, incompatible with morality. One would not condemn logic because some people call perfectly good arguments 'illogical' as a way of criticizing them illegitimately. Thus, we need to distinguish a pervasiveness claim from the overridingness, or inescapability claim. To say that moral reasons are overriding or inescapable is not to say they are pervasive.

Further, one can regard moral reasons as overriding *relative to other types of reasons*, and also not view morality as too demanding, depending on how one understands the scope of moral reasons. If Alice has moral reasons to help the needy and moral reasons to promote her (morally acceptable) talents, then the issue is one of weighing reasons, not whether or not moral reasons are overriding with respect to other sorts of reasons.[11]

While not themselves virtue ethicists, Susan Wolf and Michael Stocker wrote on aspects of our moral lives, and our lives in general, that resisted analysis on consequentialist and Kantian accounts of normativity.[12] Their work, like Anscombe's, helped to fuel dissatisfaction with these approaches that, in turn, helped to make virtue ethics appear more attractive as an alternative. Thus, when virtue ethics first appeared on the scene it was in the context of providing such an alternative. Wolf argued that the perfect Utilitarian and the perfect Kantian were people whose lives were, overall, defective, in that living up to the demands of their respective theories would conflict with personal ideals, the sorts of ideals that make one's life flourish, and that enriches the lives of the people one is close to. Stocker argued that Utilitarianism and Kantian ethics, due to their commitment to impartiality, in effect alienate the moral agent from central values, such as friendship. This is because Utilitarianism, for example, requires that one either take an instrumental attitude towards friends, which is incompatible with the nature of

friendship itself, or a act on reasons that are not instrumental, in which case their actions are justified only be other reasons – not the ones they actually use in justifying their action to themselves. A parallel type of criticism can be made against the Kantian, who also either needs to appeal to impartial justification of partial norms, or discount partial norms altogether.

In some cases, such as Alastair MacIntyre's, there was a concern that ethical theory had presented a false unification of moral phenomena. Earlier works by Iris Murdoch and Thomas Nagel had cast some doubt on there really being a unified conception of value.[13] The doubt was carried over to ethical theory more generally by MacIntyre, who also noted that there was a great deal of cultural relativity in specifications of virtue.[14]

Those who favored virtue ethics tended to favor a return to an Aristotelian view of the 'good life,' informed by a conception of the good, or *eudaimonia*. On this conception of the good life, a central role is played by practical reason. A person with good, but natural, unregulated, inclinations can actually lead to behaviors that are destructive and harmful to others. What distinguishes human activity from that of other creatures is reason, and the fact that our behaviors can be regulated by reason.

John McDowell identified virtue with perceptual knowledge.[15] McDowell was motivated by meta-ethical concerns, but the account he articulated has normative implications. On his view, virtue is perceptual knowledge of what is morally relevant. The virtuous person does not follow, or apply, rules in exercising virtue. The virtuous person sees what is morally relevant and acts appropriately. This leads to a kind of *motivational* internalism, holding that the knowledge of what is morally relevant *motivates*. The normative implications are several. First, McDowell was inspired by general Wittgensteinian skepticism on rule-following and this, in turn, led to skepticism about it in ethics. This would cut against rule-based accounts, such as consequentialism was perceived to be at the time, as well as Kantian ethics, which centered on application of the Categorical Imperative (see below). The perceptual sensitivity model was picked up on by virtue ethicists and feminist ethicists. The ethics of care, for example, in the Gilligan mold, was often viewed as involving a kind of sensitivity to what the moral agent perceived as morally significant, rather than mere application of a rule, such as the

principle of utility. Further, the McDowell account viewed virtue as a kind of knowledge. This helped to cement the Aristotelian approach to virtue ethics, which viewed practical wisdom as essential to virtue, and knowledge as crucial to distinguishing true virtue from mere good inclinations. Martha Nussbaum's work on virtue also accepted this view that there is, at the basis of virtue, a kind of perceptual knowledge.[16] This knowledge condition was attacked, however, as failing to adequately model the virtues. Some virtues seem to need a negative characterization – they rely on the agent not knowing, or being aware of, features of the context that are morally relevant.[17] An awareness of one's full merits, for example, can generate social ill-will if it is detected by others in one's social group. This is one reason sincere forms of modesty are often viewed favorably. The general approach to viewing virtue as perceptual sensitivity has also come under attack by social psychologists who point out that empirical research indicates that people pick up on reasons that justify their behavior, at best, after the fact. And, often, they can't accurately articulate the reasons that actually caused, or explain, their actions. Thus, there seems to be disconnect between the reasons that justify the person's action and the reasons that actually cause or explain the person's actions. The famous example of this has to do with findings that show that nice smells, such as the smells of cookies baking, make it more likely that the person smelling them will act benevolently.[18] Of course, the person may see that morality demands the benevolent act in that given situation, but these findings suggest a disconnect between that perception all by itself and motivation. Still other examples, such as the 'reasons' given by the villagers in Le Chambon for saving children from the Nazis, make it seem that even though people fortunately do respond to the right sorts of reasons they often don't perceive their own actions this way. Thus, they don't have knowledge, again, of the full facts of their motivation.

The work of writers like Anscombe and McDowell helped spur virtue ethics. The Aristotelian model would be refined by writers such as Rosalind Hursthouse (1999) who developed a neo-Aristotelian account of virtue based ethics – which, interestingly, did not denounce rule following or suggest 'moral right' eliminativism, but, rather, which tried to fold those aspects of the standard approach into virtue ethics.[19] However, later writers working in virtue theory rather than virtue ethics, challenged the classical, Aristotelian,

approach as placing too many psychological requirements on virtue.[20] This type of criticism would also be pursued by writers who looked at the empirical literature in psychology on the nature of our virtue ascriptions (see below).

The Kantian Strand

Moore also discussed the work of Immanuel Kant, arguing against Kant's view of biblical love, for example, as being solely motivated by duty.[21] This observation was also made, later, by those who argued that virtue ethics was superior to 'impartial' ethics such as Kant, which seemed to make no room for the role of emotion in morality.[22] This charge would be rebutted by those who noted that Kant does have a place for emotion in morality, though its value seems to be instrumental – for example, cheerfulness in doing one's duty makes one more likely to actually do it. But the failure of Kant's view to *rest* morality on emotion is considered a strength of his view as well, since it renders morality immune to the apparent fickleness of emotion.

It is uncontroversial that the work of John Rawls did much to expand the influence of Kant's ethical thought on the development of ethical theory in the last century. Rawls was interested in drawing out a view of Kantian meta-ethics that was contrary to the traditional, very realist interpretation of Kant. In fact, this view, known as 'Kantian constructivism,' renders Kant's meta-ethics far more similar to the sentimentalist views of Hutcheson and Hume.[23]

Rawls' approach, however, was restricted to political issues of justice in society. The Kantian approach in normative ethics was developed more by writers such as Barbara Herman, Tom Hill, jr., Marcia Baron, Christine Korsgaard and Allen Wood. Still, Rawls' work on Kantian constructivism highlighted features of Kant's ethics that sharply distinguished Kant's approach from other approaches. One sharp distinction is that of procedure and outcome. The consequentialist approaches are often (though not always) outcome oriented. The right is understood in terms of achievement of the good. On Kant's view, however, one fulfills one's obligations procedurally, by conforming one's will to the Categorical Imperative. As long as one engages in this exercise, one has acted rightly, even if the actual outcome of the action is disastrously bad. In reading Kant

himself we can see that one reason why this seems so compelling is that it insulates agents from moral luck. Since consequences are ultimately beyond our control we can't be held responsible for *them*, nor can they affect the moral quality of our actions. It is only the content of our wills that matter *morally*. However, this strength is also a weakness in that it seems to run counter to strongly held intuitions to the effect that the person who kills has done something much worse, morally, than the person who tries to kill but fails.[24]

The Categorical Imperative itself has several formulations. The two that are most frequently discussed are the universalizability formulation and the principle of humanity. The universalizability formulation is the following: "Act only according to that maxim whereby you can at the same time will that it should become a universal law."[25] The principle of humanity formulation is: "Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means."[26] Kant apparently held that the various formulation all came down to the same thing – a core respect for rational nature. However, various commentators pointed out conflicts between formulations. For example, Christine Korsgaard noted that one could universalize a maxim of something like "lie to save an innocent life" but such a maxim would fail the principle of humanity (see below).Some work in the latter part of the 20th century on Kantian ethics has sought principled ways to reconcile the formulations.

Also in the latter part of the 20th century work on Kantian ethics has been motivated by a desire to work out Kantian accounts of moral practice that contrast favorably with alternatives such as Utilitarianism. Tom Hill, for example, has written widely on integrity and respect. Respect is a key idea in Kantian philosophy since the fundamental moral duty is taken to be one of respect for the autonomous nature of other rational beings. He noted that one attractive feature of Kant's view on respect is that self-respect is treated as a moral issue. And, intuitively, this seems rights. Hill considers the case of the subservient, over-deferential, housewife who sacrifices for the sake of others out of low self-esteem. This is a moral failing, not just a failure of prudence.[27]

Contemporary Kantians have also been concerned to defend the Kantian approach from criticisms. Some of those criticisms are leveled against the absolutism of the moral

theory. Kant famously held that one ought never tell a lie, no matter what good effects could be realized as a result of the lie. While there is a positive aspect to absolutism with respect to some of our intuitions – for example, it seems wrong to kill an innocent person *simply* to maximize happiness – and the absolutist can easily account for this, absolutism seems wildly implausible in other cases. The classic case used against Kant is the lie that is used to save the life of an innocent person. This is because, even if one is lying to an bad person, one is certainly still manipulating him, which violates the principle of humanity formulation of the Categorical Imperative. Christine Korsgaard has tried to defend Kantian ethics against these sorts of criticisms, arguing that, though the principle of humanity does condemn lying under any circumstances, it is intended to apply in ideal circumstances in which human beings live in cooperation and harmony, and are not trying to hurt and manipulate each other.[28]

Many of the same criticisms used against Utilitarianism were leveled against the Kantian. The theory had no role for emotion. The theory was committed to impartiality. The theory was rule-based. Many of the same strategies used by the Utilitarian could be used by the Kantian, particularly those that attacked impartiality and rule-based ethics. But Kantians kept to the spirit of Kant on emotion. It is important to note that Kant is not committed to a view that emotion is bad, or that we shouldn't have it in our lives. Rather, the view is that actions with moral worth are performed because they conform to the CI, and that is it. Emotion doesn't enter into the picture in any fundamental justificatory way. And, the argument is, that is good. It is good because, on the Kantian view, emotions are fickle and unstable, but the ground of morality is not. It is good because our emotional responses – even the ones normal for human beings in general – are highly contingent on how we developed, on our nature. Yet, moral truth is not. But Kant recognized that emotions, as part of human nature, could be cultivated in such a way as to support morality.

Emotion and Impartiality

The interest in moral psychology sparked by Anscombe's work inspired not just virtue ethicists, but other writers who sought alternatives to the prevailing theories. Some

would look to psychology itself for inspiration, and find it in the work of Carol Gilligan, whose work on gender differences in moral thinking led to interest in feminist moral philosophy. Gilligan was not engaged in analysis, or philosophical psychology. She was engaged in an empirical study of the behavior and attitudes of girls and boys regarding moral issues. She noted the differing responses of girls and boys to moral dilemma cases and hypothesized that these differences reflected different moral points of view. Her methodology was attacked as flawed, since her samples were small and not randomly chosen. But the claim itself that she was making seemed to appeal to those who thought that women had, unfairly, been regarded as not less morally developed as men, since men seemed to exhibit a greater adherence to norms of justice as opposed to norms of caring. This in turn raised the issue of developing an entire ethics based on caring, or sympathetic engagement with others that was thought to be in tension with a system that advocated cold and impartial adherence to rules.[29] Indeed, feminist philosophers as well as virtue ethicists criticized the impartialist approaches exemplified by Kantian ethics and consequentialism. How can, for example, one be a good friend, or a good parent, if one is impartial in one's dealings with others? Impartiality seems utterly incompatible with the nature of these relationships, and it also seems completely obvious that these relationships have a moral dimension. However, while it is true that there is a partiality in these relationships, it is also true that they are not without impartial norms. Jean Hampton noted that one needs justice in personal relationships as well. Any parent of more than one child knows that issues of justice come up within these relationships – benefits and burdens must still be distributed *equitably*. Likewise, consequentialists and Kantians can argue that the partiality itself is limited by higher order impartiality.[30] Miranda may have reason to prefer her children, and if reasonable she recognizes that others have reason to prefer their own children, rather than hers.

The huge literature on special obligations and the role of emotions in ethics generated pressure on impartialist approaches to at least signal how their theories accommodate these features of our moral lives. There was widespread skepticism that consequentialism was up to the task. Some writers felt that the theory led to a kind of schizophrenia in practical deliberation in that if the agent is not motivated by consequentialist reasons, but instead is motivated by reasons of, let's say, friendship plain

and simple, then the agent is alienated in some way from his theory of justification. There is the added assumption that this sort of alienation is disturbing and bad.[31] Of course, even if it is disturbing, that doesn't make the theory itself false. At worst it may mean that we have one reason to not accept the theory even if it is true.

But these worries, among others, led some consequentialists to develop views that more plausibly reflected actual modes of practical deliberation on moral matters. Peter Railton made a case for what he termed 'objective consequentialism' – arguing that the best outcome, or the right action, might be more likely obtained if agents don't employ explicitly consequentialist reasoning. In this he and Hare agreed. However, there were features of Railton's approach that were more radical than Hare's. Railton draws the distinction between subjective and objective consequentialism the following way:

> Subjective consequentialism is the view that whenever one faces a choice
> of actions, one should attempt to determine which act of those available would
> most promote the good, and should then try to act accordingly….Objective
> consequentialism is the view that the criterion of the rightness of an act or
> course of action is whether it in fact would most promote the good of those
> acts available to the agent. [32]

Other writers later pointed out that this wasn't the clearest way to make the distinction. David Sosa notes that what Railton means to say when characterizing subjective consequentialism is simply that this view holds that all right actions involve explicit consequentialist deliberation, and this has really got to be false. Sosa argues that it really should be termed something like 'deliberationism.'   Most subjective consequentialists simply hold that for an action to be right the agent needs to be exhibiting the right kind of subjective state – so, for example, one might hold that the right action is the action that the agent *expects* will bring about the best consequences amongst the range of alternatives open to her. When the distinction is drawn this way the contrast between subjective and objective is understood in terms of the contrast between what the agent has in mind about the good produced by the action, and the good that is actually produced by

the action. But one could also hold that the right action is the action that produces the best *foreseeable* consequences. Here one doesn't appeal to what the agent is actually thinking, but rather what is *foreseeable* by the agent – whether or not she actually does foresee the good effects. Understood this way, the contrast is between what a reasonable agent would have in mind about the good produced, and what good is actually produced regardless of what a reasonable person would foresee.

Frank Jackson makes an appeal to the phenomenology of practical deliberation when he argues against what he calls the objective view.

> When we act we must perforce use what is available to us at the time,
> not what may be available to us in the future or what is available to
> someone else, and least of all not what is available to a God-like being
> who knows everything about what would, will, and did happen.[33]

I share Jackson's concerns. But sticking to what is available needn't commit one to the rejection of the objective standard anymore than the fact that one doesn't have a ruler commit one to rejecting the standard that the ruler sets for 'one foot.' Commitment to the standard commits one to doing the best one can (given a host of efficiency considerations that exist in real life situations). Further, as noted earlier, the objective consequentialist simply maintains that what determines the rightness or the wrongness of the agent's action is not the set of psychological states of the agent *at the time* of performing the action, though that will determine whether or not the agent is blameworthy for performing the action. However, the standard of 'right' may involve reference to what the agent could reasonably be expected to know, or the attitude the agent could reasonably be expected to have under the circumstances. It may not refer to the agent's actual psychology but, rather, some idealized form of that psychology, even in some very indirect way.

Intuitionism

Probably one of the major challenges to consequentialism occurred via intuitionistic approaches to moral philosophy that were inspired by the work of H. A. Prichard and W.D. Ross, and grew out of 'natural law' approaches which held that the methodology used in answering moral questions had to do with a careful teasing out of normative principles from intuitions about given cases, particularly those presenting structural dilemmas. This branch grew from the work in the middle of the century by Philippa Foot, which was taken up by writers such as Warren Quinn and Judith Thompson, and later by Frances Kamm.

H. A. Prichard made the earliest, 20th century, case for this approach in his 1912 article "Does Moral Philosophy Rest on a Mistake?" On his view we do not apprehend our moral obligations, or moral rightness, through arguments, but through a kind of immediate apprehension of them:

> The sense of obligation to do, or of the rightness of, and action of a
> particular kind is absolutely underivative or immediate. The rightness of
> an action consists in its being the origination of something of a certain
> kind in a situation of a certain kind, a situation in a certain relation B
> of the agent to others or to his own nature….This apprehension is
> immediate, in precisely the sense in which a mathematical apprehension
> is immediate, .*e.g*., the apprehension that this three-sided figure, in
> virtue of its being three-sided, must have three angles. Both
> apprehensions are immediate in the sense that in both insight into
> the nature of the subject directly leads us to recognize its possession
> of the predicate; and it is only stating this fact from the other side to
> say that in both cases the fact apprehended is self-evident.[34]

An implication of the general view is that right is not a matter of what is good, it isn't reducible to the good. We know what's right when we see it, and it is epistemic seeing – we see that something is right and that just is one side of seeing it as obligatory.

The negative side of all this is, of course, that we do not come to appreciate an obligation by an *argument, i.e.* by a process of non-moral thinking, and that, in particular, we do not do so by an argument of which the premise is the ethical but not moral activity of appreciating the goodness either of the act or of a consequence of the act....[35]

Prichard's work had interesting implications for metaethics.[36] However, in this chapter we focus on the normative ethics. Prichard's work helped to launch normative intuitionism, particularly as a competitor with Utilitarianism, or consequentialism. But some care is needed in unpacking Prichard's claims. His view is that rightness is directly apprehended, one isn't argued into it. However, Prichard clearly thought that, in actual moral practice in presenting a case for x rather than y, one gave reasons and there were reasons to morally prefer x to y. A right action can be justified. So, it makes perfect sense to say "You shouldn't do that because it would hurt Mark's feelings," the 'because' providing the relevant reason, and we directly apprehend the normative force of this (the wrongness) within the specified context. What one cannot do is argue that the hurt feelings have force via reduction to something like pain, which is bad. To do so would involve, in Prichard's view, an unwarranted assumption. It is the assumption that what is good "...ought to be..." and, conversely, what is bad ought not to be. It is the 'obligatoriness' of the act once it has been fully specified that we directly apprehend in light of apprehending the features of the act. Information about consequences of the action, the agent's relation to others, and relational features of the action itself (i.e. it is in response to a gift, for example) are all relevant bits of information in understanding the nature of the action in question.

This general approach was also developed by W. D. Ross in that he, too, believed that there was no underlying theoretical basis to our normative commitments. Ross held that consequentialism was false, though there was a kernel of truth to the approach in that a consideration of the effects of one's actions is one relevant factor in determining the action's moral quality.[37] Ross also disagreed with the Kantian, who held that we had duties to avoid certain things, like lying, no matter the consequences. Unlike Anscombe,

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he was not an absolutist. Indeed, Ross seems to have been trying to carve out a compromise between the consequentialist and the Kantian by acknowledging the validity of portions of each. His theory relied on intuitionism in that he held that we do know, intuitively, that certain actions are right or wrong irrespective of their consequences – this is like the Kantian insight, except that it relies on intuitions themselves as a basis as opposed to the sorts of arguments we see Kant making. However, though consequences are not the only things that matter morally, they do still matter. But consequences vie with many other factors that are given in our *pro tanto* duties.[38] One may have a duty to tell the truth, but one also has a duty to save an innocent person from being killed. The weightier one is the one where a life is at stake, so it will be permissible for someone to tell a lie to save an innocent person from death, though lying is still something which one has a reason to avoid doing. Ross criticizes Moore, who was a consequentialist, for mischaracterizing our morally significant relations to others. According to Ross, Moore claims:

> ….in effect, that the only morally significant relation in which my
> neighbors stand to me is that of being possible beneficiaries by my
> action. They do stand in this relation to me, and this relation is morally
> significant. But they may also stand to me in the relation of promisee to
> promisor, or creditor to debtor, of wife to husband, of child to parent,
> of friend to friend, of fellow countrymen to fellow countrymen, and the like;
> and each of these relations is the foundation of a prima facie duty….[39]

Ross provides a non-exhaustive list of such duties via what he terms *prima facie principles* (which are actually *pro tanto*): fidelity, gratitude, justice, beneficence, self-improvement, non-maleficence. We can understand moral dilemmas in terms of conflicts between principles and duties. After careful scrutiny, dilemmas can be solved by considering which duty is the weightier one in the particular situation.

But precisely these sorts of cases pose the question of *how* to weigh moral concerns. One way to go is to argue that what underlies the force of Ross's normative system is just consequentialism – once it is clearly articulated. We really do weigh up the

duties against each other on the basis of the effects generated by living up to one rather than the other, in dilemma situations. This strategy, which is rejected by Ross, certainly, views the system as a veneer over a consequentialist basis or platform.

Ross's theory is considered a kind of middle ground between consequentialism, which seems too permissive, and absolutism, which seems much too rigid. Consider the standard case of lying. On the consequentialist view there will of course be a presumption against the morality of telling a lie since usually those are bad in that they lead to bad effects. But, of course, this is only a presumption and will be overridden when it is clear that the effects of the lie will, overall, be good effects. The absolutist holds that there is more than a presumption against lying, morally. There is a genuine prohibition such that weighing the effects is morally irrelevant to the moral quality of the lie. We don't need to weigh the effects at all – if the agent's utterance is a lie, it is wrong, period. Ross's compromise, if you will, is to hold that there is a very strong presumption against lying, but that we also have a *pro tanto* duty against, for example, allowing harm. In cases where these conflict, as in the standard lying-to-save-an-innocent-life case, we consider the case and it becomes clear that the weightier is the duty to help another, the duty to save a life. Very many find this compromise intuitively satisfying.

And Ross doesn't just rely on raw intuition in making his case. He provides some interesting arguments against consequentialism. One argument asks us to consider the consequentialist view on lying versus telling the truth, when the effects of each are exactly the same (his case is actually that of promise breaking, which he views the same as lying). Clearly the lie would be wrong, he argues, though the consequentialist is compelled to hold that both are equal in terms of moral quality. If faced with each and an alternative, one could go either way. This, he believes, shows that the consequentialist cannot adequately account for the true presumption against lying.

Thomas Carson has provided a limited defense of the consequentialist against Ross's criticisms.[40] He argues that cases that satisfy this description are hard to imagine. However, he notes that one can imagine lying-to-stranger cases where the effects will be much more limited than in the typical cases:

Suppose that I lie about my age to a stranger on a train or airplane – I

tell her that I am 52 years old, when, in fact, I am 54 years old.   It's hard

to see how being misinformed about my age could possibly harm her or

anyone else….utilitarians can claim that, since lying almost *always* harms

one's character, there is almost always a moral presumption against lying.[41]

But, he then goes on to note that Ross can avoid this by considering cases where the lie actually produces a tiny amount of good comparable to the erosion of one's character in telling the lie.

But another way to go, which is in keeping with Ross's views, and which also sets the stage for the Trolley Problem literature, is to hold that there are *principles* which are intuitively plausible and which can guide us in making these determinations. These principles have no underlying justification in effects on the world. The rightness or wrongness of some actions will be independent of effects. Again, this is not to deny the relevance of effects, it is simply to deny their exhaustive relevance. This brings us into the mid to late 20th century, and into the development of normative intuitionism generated by the trolley problem.   The trolley *case* was first introduced by Philippa Foot in "The Problem of Abortion and the Doctrine of Double Effect," when she argued that it would be permissible for a tram operator to turn a trolley onto another track to save five people, even if that meant killing one.

The case was picked up and extensively discussed by later writers, including Judith Jarvis Thomson, who used it in the most well known example of 'the Trolley Problem'. In "Killing, Letting Die, and the Trolley Problem," she asks us to consider the following cases, juxtaposed, the trolley case and the transplant case, respectively:

Edward is the driver of a trolley, whose brakes have just failed.
On the track ahead of him are five people; the banks are so steep that
they will not be able to get off the track in time. The track has a spur
leading off to the right, and Edward can turn the trolley onto it.
Unfortunately there is one person on the right-hand track. Edward can
turn the trolley, killing the one; or he can refrain from turning the trolley,
killing the five.[42]

David is a great transplant surgeon. Five of his patients need new parts – one
needs a new heart, the others need, respectively, liver, stomach, spleen, and
spinal cord – but all are of the same, relatively rare, blood type. David can
take the healthy specimen's parts, killing him, and install them in his patients,
saving them. Or he can refrain from taking the healthy specimen's parts,
letting his patients die. [43]

These cases are structurally similar, and yet our verdicts are quite different. Intuitively,
like Foot, most people believe that it is permissible to steer the trolley onto the track with
one person, thereby saving the other five. Thus, they believe in this case that it is better
for one to die than five. However, most have the completely opposite opinion in the
transplant case. In this case, if David killed one to save five he would be acting
monstrously. The problem for the intuitionist approach is to devise *principles* that will
adjudicate such cases in a consistent way. A plethora of writers have suggested various
principles. Thomson's own suggestion was the distributive exemption principle [DEP],
which holds that it is "…not morally required of us that we let a burden descend out of
the blue onto five when we can make it instead descend onto the one only if we can make
it instead descend onto the one by means which do not themselves constitute
infringements of rights of the one."[44] This led to a cottage industry in which various
principles and distinctions were suggested as a way of reconciling these, and other, cases
in which, again, the structures of the cases were similar, and yet intuitive verdicts
varied.[45]

This problem highlights not simply an approach to a particular problem regarding
how to rightly distribute burdens, it also illustrates the moral methodology employed by
intuitionists – a method of comparing cases to determine what features might make a
genuine moral difference when our intuitions seem to clash about structurally similar
cases. The close of the 20th century would see this method in normative ethics – that is,
the relying on simple givens of our intuitions as the raw data for principles – cast
somewhat into doubt by empirical research in moral psychology. In a way, this

represents the scientizing trend, so alien at the opening of the century, in its extreme. We will return to this at the close of the essay.

Intuitionists were united in their opposition to consequentialism. Whatever one thinks about the ultimate failure of the positive project, the approach led to some compelling problems for consequentialism, and put serious pressure on the view. In the classic trolley problem, it would seem that the straightforward consequentialist is committed to *requiring* David to transplant, to kill one to save five. Thus, the consequentialist would seem to be in a position of requiring the agent to perform the action that almost all would agree is morally outrageous. This can be added to the requirement of judicial murder, and twisting a child's arm, in the list of cases against the consequentialist.[46] There are many different ways to formulate the point of these lines of criticism, but probably the most common is to hold that they demonstrate that consequentialism has no place for rights, as an essential core element of the theory. At best, rights can be grounded in the instrumental good they promote, but, the thought goes, they are therefore overridable at the drop of a hat. Thus, they are very insecure.

The Empirical Turn

At the very end of the 20th century, as consequentialists and Kantians were defending their views against virtue ethical attacks, normative ethics began to be influenced by empirical moral psychology. In actuality, of course, philosophers had long taken an empirical approach – Aristotle is perhaps the classic example of a philosopher who viewed the good of an organism to be a matter of proper functioning, which can be determined empirically. Hume, also quite famously held that morality was subject to the same type of inquiry and scrutiny as prevails in the empirical sciences. But at the end of the 20th century a trend to bring in work psychological research and show its direct relevance to normative ethics was started. This trend paralleled the use of psychology and cognitive science in the philosophy of mind. As mentioned earlier, Carol Gilligan's work was taken to have great significance to the development of feminist ethics and the ethics of care.[47] Owen Flanagan, in *Varieties of Moral Personality*, argued that normative ethics must be psychologically realistic, and, as such, needs to consider the actual

research done in the psychology of morality.[48] Gilbert Harman argued that the field of 'situationism' in psychology fatally undermined virtue ethics.[49]

As an example of this trend I'll consider Harman's attack on virtue ethics.[50] Harman drew on research in psychology that seemed to support the view that *there are no character traits*. This is extremely surprising, and of course would be very bad news for virtue ethicists, since they seem committed to the existence of virtues.[51] The research Harman pointed to was that of the situationists, so-called because the hypothesis, which best explains an agent's behavior, they argue, is that the agent's situation determines what behavior is most likely for the agent. Consider an experiment cited by Nesbitt and Ross in their work on situationism – the experiment at Princeton Theological Seminary in 1963. This experiment seemed to show that factors such as time available, whether the talk was a job talk, and so forth, could be used to predict and explain behavior. Since the behavior varied according to these factors, the hypothesis was that it was these external, situational, factors that lead to the behavior, and that character traits play no role. If they play no role in prediction or explanation they are superfluous, we don't need them. This gives us good reason to doubt their existence. It seems as though we can use character traits to explain and predict, but it is really a stable situation of the agent that is doing the work. Vary the situation and one can get dramatic variances in behavior.

Numerous writers criticized this approach, noting, for one thing, that it doesn't show at all that character traits don't exist. Even if one accepted the empirical data as reported, it wouldn't establish that radical a conclusion. Perhaps human beings are fairly homogenous in terms of their character, for example. Others used the situationist material to hold that a corresponding epistemological thesis could be supported however: maybe virtues exist, maybe they don't. But we aren't justified in believing in them if situationism is true.[52] However, both of these approaches – the one skeptical of the existence of virtues and the one skeptical of our being justified in believing they exist – suffer from the fact that situationism is, itself, a view which is not empirically supported in the sense that there are very many ways to interpret the available evidence that is completely compatible, and supportive, even, of the existence of character traits. In the virtue ethics literature the situationist critique of the theory is often presented as the only approach compatible with research on character traits in psychology, and this simply not

true.[53] This radical interpretation of the significance of the situationist data regarding character traits is incompatible with other empirical research in psychology.

The work of Gilbert Harman and John Doris in this area has heralded a broader challenge to features of 'folk' morality.[54] Again, one can see a parallel with challenges to 'folk' psychology in the philosophy of mind. This challenge has had greater effect, though, on inuitionist approaches in challenging the methodology intuitionists employ in arguing for principles of moral evaluation and guidance.

Conclusion

At the end of the 20th century we also saw new developments in the major normative theories, Utilitarianism, Kantian ethics, and Normative Intuitionism, as well as the re-deployment of Virtue Ethics. The century began with many ethicists convinced that naturalism with respect to normative enterprises would fail, and, while many philosophers still believe this to be the case, the scientizing approach has gained ground. By the end of the 20th century, even in normative ethics, there was a push to incorporate empirical findings into the methodology of examining normative ethical theories.

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[1] See Thomas Hurka, "Normative Ethics: Back to the Future," in *The Future of Philosophy* ed. Brian Leiter (Oxford University Press, 2004) for a discussion of this trend in 20th century normative ethics.
[2] See William Shaw's *Moore on Right and Wrong: the Normative Ethics of G. E. Moore* (Springer, 1995) for a discussion of Moore's neglected normative ethics. See Dancy in this volume for a discussion of Moore's meatethical work.
[3] *Principia Ethica*, 212.
[4] *Reasons and Persons*, 1984.
[5] (Amherst, NY: Prometheus Books, 1998), 224.
[6] See, for example, Brad Hooker's discussion of how to avoid this problem for rule consequentialism in his *Ideal Code, Real World*

[7] For example, Michael Slote would develop a 'satisficing' view of consequentialism which denied both a rational and moral imperative to maximize the good. See his *Beyond Optimizing* (Cambridge, MA: Harvard University Press, 1989).

[8] See Fred Feldman, *Utilitarianism, Hedonism, and Desert* (New York: Cambridge University Press, 1997).

[9] See his discussion, with J. J. C. Smart, in *Utilitarianism*

[10] *Ethics and the Limits of Philosophy* (Cambridge, MA: Harvard, 1985), 177.

[11] I discuss this further in "Moralism," in *What's Wrong with Moralism?* edited by C. A. J. Coady, (Blackwell 2006), 37-51. The volume was first published as a special issue of *The Journal of Applied Philosophy* (Vol. 22, #2).

[12] See, particularly, Susan Wolf's "Moral Saints," *Journal of Philosophy*; Michael Stocker's "The Schizophrenia of Modern Ethical Theory," *Journal of Philosophy*.

[13] See Iris Murdoch, "The Sovereignty of the Good Over Other Concepts," reprinted in *Virtue Ethics*, ed. Michael Slote and Roger Crisp (New York: Oxford University Press, 1997), pp. 99-117 ; Thomas Nagel, "The Fragmentation of Value," reprinted in *Mortal Questions* (New York: Cambridge University Press, 1979), pp. 128-141.

[14] *After Virtue* (London: Duckworth, 1985).

[15] "Virtue and Reason," *The Monist* (1984).

[16] See her discussion in *Love's Knowledge* (New York: Oxford University Press, 1990). She characterizes the sort of perception crucial to practical deliberation as "…the ability to discern, acutely and responsively, the salient features of one's particular situation.", p. 37.

[17] See my *Uneasy Virtue* for a discussion of such virtues as modesty and blind charity, (New York: Cambridge University Press, 2001).

[18] John Doris discusses this literature in *Lack of Character* (New York: Cambridge University Press, 2002), pp. 30 ff. Specifically, he discusses the work of R. A. Baron and J. Thomley, "A Whiff of Reality: Positive Affect as a Potential Mediator of the Effects of Pleasant Fragrances on Task Performance and Helping," in *Environment and Behavior* 26 (1994), pp. 766-784.

[19] *On Virtue Ethics* (Oxford: Oxford University Press, 1999).

[20] Julia Driver, *Uneasy Virtue* (New York: Cambridge University Press, 2001) and Nomy Arpaly *Unprincipled Virtue* (New York: Oxford University Press, 2003).

[21] *Principia Ethica*, Chapter V: Ethics in relation to conduct.

[22] Justin Oakley, *Morality and the Emotions* (New York: Routledge, 1992).

[23] See J. B. Schneewind, *The Invention of Autonomy* (Cambridge,).

[24] For a detailed discussion of moral luck and the Kantian intuition see Thomas Nagel's "Moral Luck," in *Moral Luck*

[25] *Grounding of the Metaphysics of Morals*, trans. James Ellington (Indianapolis, IN: Hackett Publishing Co., 1981), p. 30.

[26] Ibid, p. 36.

[27] Thomas E. Hill, jr., "Servility and Self-Respect," reprinted in *Autonomy and Self-Respect* (New York: Cambridge University Press, 1991). pp.4-18.

[28] See her *Creating the Kingdom of Ends* (New York: Cambridge University Press, 1996).

[29] See Nel Noddings, *Caring: A Feminine Approach to Ethics and Moral Education* (Berkeley and Los Angeles: University of California Press, 1984); Michael Slote, *The Ethics of Care and Empathy* (New York: Routledge, 2007).

[30] Marcia Baron; Julia Driver, "Consequentialism and Feminist Ethics," *Hypatia*.

[31] This line was developed in Michael Stocker, "The Schizophrenia of Modern Ethical Theory," ;

[32] Peter Railton, "Alienation, Consequentialism, and the Demands of Morality," *Philosophy & Public Affairs*, 13 (1984), p. 152.

[33] Frank Jackson, "Decision-theoretic Consequentialism and the Nearest and Dearest Objection," *Ethics* 101 (1991), p. 472.

[34] H. A. Prichard, "Does Moral Philosophy Rest on a Mistake," *Mind* 81 (1912), pp. 27-28.

[35] Ibid, p. 29.

[36] For further discussion see Dancy, in the present volume.

[37] *The Right and the Good*, ed. Philip Stratton-Lake (London: Oxford University Press, 1930).

[38] Ross calls them '*prima facie*' but he actually means '*pro tanto*.' As Shelly Kagan notes, prima facie duties are only duties 'at first blush' that, on closer inspection, one can see are not actually duties in that context. Pro tanto, on the other hand, have genuine weight though can be overridden by weightier duties.

[39] Ross, op. cit., p. 19.

[40] Thomas L. Carson, "Ross and Utilitarianism on Promise Keeping and Lying: Self-evidence and the Data of Ethics," *Philosophical Issues*, 15 (2005), 140-157.

[41] Ibid, 146.

[42] Judith Jarvis Thomson, "Killing, Letting Die, and the Trolley Problem, " in *Rights, Restitution, and Risk* [RRR], edited by William Parent (Harvard University Press, 1986), pp. 80-81.

[43] Ibid, 80.

[44] Judith Jarvis Thomson, "The Trolley Problem," in RRR, 180.

[45] Prominent examples include Warren Quinn, Nancy Davis; and Frances Kamm, *Intricate Ethics*. For some interesting literature debunking the deontic take on the trolley problem see Alastair Norcross, , and Joshua Greene

[46] I refer here to Anscombe's criticism of Utilitarianism in "Modern Moral Philosophy," and Thomas Nagel's criticism of Utilitarianism in *The View From Nowhere* (New York: Oxford University Press, 1986).

[47] Carol Gilligan, *In a Different Voice* (Cambridge, MA: Harvard University Press, 1982). Gilligan's work greatly influenced Nel Noddings in her development of an ethics of care,

[48] Owen Flanagan, *Varieties of Moral Personality: Ethics and Pscyhological Realism* (Cambridge: Harvard University Press, 1993).

[49] Gilbert Harman, "Moral Philosophy Meets Social Psychology: Virtue Ethics and the Fundamental Attribution Error," *Proceedings of the Aristotelian Society*, New Series, Vol. 99 (1999), 315-331.

[50] This attack was followed up by John Doris in *Lack of Character*, op. cit.

[51] This isn't quite true. The virtue ethicist could claim that even if virtues don't exist they can constitute an ideal.

[52] Peter Vranas takes this approach in his…

[53] For example, in "Moral Philosophy Meets Social Psychology: Virtue Ethics and the Fundamental Attribution Error," *Proceedings of the Aristotelian Society* 99 (1999), p. 316, Gilbert Harman writes:

> Empirical studies designed to test wheter people behave differently in ways that might
> Reflect their having different character traits have failed to find relevant differences….
> the existing studies have had negative results. Since it is possible to explain our
> ordinary belief in character traits as deriving from certain illusions, we must conclude
> that there is no empirical basis for the existence of character traits.

But this is much too strong a conclusion to draw from the situationist evidence. What one might be able to say instead is simply that the evidence underdetermines the correct theory.

[54] See Doris, op. cit.