The Method of Determination in Moral Reasoning: Moral Universalism and Particularism Reconciled?

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Introduction

This paper uses teleological virtue ethics as an organon for presenting an analysis of ethical knowledge of the good in terms of levels of abstraction or specification. It presents an analysis of how the method of determination, best known from Aquinas’ ‘Treatise on Law,’ but more widely as a term for informal practical judgement, guides practical reason in moral matters. Practical reason moves from more or less vague ideals and goals, and very general imperative principles to the selection of subordinate ends, means and specific precepts where available. On this account virtue tends to happiness. Object/ends of the capacities are targets of virtues and their final causes. Sometimes means to them are captured by moral or practical precepts specifying certain act-types in types of circumstance. But eventually decisions must be made on particular tokens which may embody the types in question, but which are ultimately unique in their description. This last is because the precise intent and motive (interior will) of the particular agent in performing the token will be idiosyncratic, as well as the time and place.

Moral decision making is a kind of practical reasoning using increasing specification or determination. Both theoretical and practical reason begin from idealisation, but in different ways and different senses. The former begins from assertions of fact about individuals or law like universal or tendency truths about the world as a whole; the second from more or less unspecific vague human values and normative imperatives associated with a set of human goods. In the practical case, if the ends, action-types, and principles under consideration for possible adoption are left vague or undetermined, only the mildest significant evaluative or moral quality can be assigned to the relevant proposed act types. For example, ”killing” as a generic genus of possible action with no object specified other than living thing, which includes cells and plants, may have a weak prima facie suggestion of being “bad” as an abstract act-type. To live is to be for living things and for them to live is good. But killing cancer cells is good. As one adds object/ends of the agent and other circumstances to the genus killing to get the quasi-species ”deliberately killing people,” one reaches a level where wide consensus can be elicited (eg in circumstances where the person killed is innocent, killing is murder /wrong). If one adds yet more specification this consensus again disappears (mercy killing). Section One of the paper reflects on some things about assertions and their systematic relation to imperatives. Section Two traces the correlation of this waxing and waning of consensus with specification. The third part of the paper tries to suggest that determination and casuistry help to explain the phenomenon of perceived ethical disagreement and account for some of the useless wars between ethical universalists/objectivists and particularists/subjectivists. Each concentrate on different levels of specification in the same process, yet each is correct at one level. Universalists focus on the starting points of practical reasoning- common ends, principles and rules which travel across cultures, places and times; particularists focus on the actual decisions in the particular case.

Since Aristotle, and especially in the last century, our understanding of the relation of theoretical or assertoric reasoning on the one hand and practical or imperative reasoning has improved. As Kenny has shown, (1966; 1975) following Hare (1958) theoretical reason and practical are systematically linked through the notion of a propositional content or phrastic of the form “that S is P” which represents the core of all cognitive and affective acts. Kenny represents assertions and fiats as sharing this common phrastic or propositional content, differing as this is governed by a ”fiat” or an ”est” operator (See below row 5and 7 of the comparative table). Some systematic relations of the formal logic of satisfaction and the informal logic of satisfactoriness relative to a goal can be mapped. Phrastics can be embedded in an assertion like: ”It is the case that S is P ”or a command like ”Make it the case that S is P”. Each has a different fit to the world. The former is false if S is not P in the world. The latter is not satisfied if S is not P, but unsatisfactory if making P true will not bring about S. Examples

<table>
<thead>
<tr>
<th>THEORETICAL/Assertion</th>
<th>PRACTICAL/Fiat</th>
</tr>
</thead>
<tbody>
<tr>
<td>It is true that (the cat is out of the house).</td>
<td>I wish (the cat were out of the house).</td>
</tr>
<tr>
<td>It is true that: (the cat has been put out of the house).</td>
<td>Would that: (the cat were out of the house).</td>
</tr>
<tr>
<td>If (the food bowl is in the garden) then (the cat is not in the house).</td>
<td>Put (the cat out of the house).</td>
</tr>
<tr>
<td></td>
<td>If you want (the cat out of the house) then (put his food bowl in the garden).</td>
</tr>
</tbody>
</table>

1 Summa Theologiae, Pars Prima Secundae, 91,3; 95, 2 ;
Some of the relations of the two spheres of reasoning are captured in the chart below:

**DIFFERENCES/RELATIONS BETWEEN THEORETIC AND PRACTICAL INTELLECT**

<table>
<thead>
<tr>
<th>Objects/End</th>
<th>Truth/Knowledge</th>
<th>Good/Satisfactoriness</th>
</tr>
</thead>
<tbody>
<tr>
<td>ONUS OF MATCH</td>
<td>Assertions are to fit the state of the world.</td>
<td>The world ought to fit the state of affairs projected by the wish, intention, command, plan.</td>
</tr>
<tr>
<td>EXEMPLARY PRINCIPLES (GENERAL)</td>
<td>Principles of identity, excluded middle, non-contradiction, causality, probability.</td>
<td>&quot;The Good is to be done&quot; Knowledge &quot;Do as you would and Friendship be done by&quot; are good &quot;Do no harm&quot;</td>
</tr>
<tr>
<td>E.G. OR PRIMARY PRINCIPLES</td>
<td>Established mathematical and natural science principles.</td>
<td>&quot;Do not murder&quot; &quot;Do not steal&quot; &quot;Be fair&quot; &quot;Do not perjure&quot;; Sound political, organisational or business&quot; imperatives</td>
</tr>
<tr>
<td>SUCCESSFUL USE</td>
<td>Expresses a fact or truth (what is). Logic of satisfaction is based on truth preservation.</td>
<td>Expresses satisfactoriness relative to a goal or requirement to carry out an action (what ought to be). We go from ends to multiple possible means, and choose the most satisfactory.</td>
</tr>
<tr>
<td>MOOD</td>
<td>Indicative: Has the form &quot;It is the case that&quot;.</td>
<td>Imperative: Has the form: Let it be the case that: Would it were the case that: Make it the case that:</td>
</tr>
<tr>
<td>OPERATOR</td>
<td>Est Fiat</td>
<td></td>
</tr>
<tr>
<td>MAIN INERENCE RULE</td>
<td>(Est(P) → Est(Q)) ↔ ((P → Q) where P → Q if P then Q).</td>
<td>(Fiat(P) → Fiat(Q) ↔ (Q → P)) This is called &quot;The Mirroring Effect&quot;</td>
</tr>
<tr>
<td>CONTEXT DEPENDENT?</td>
<td>Soundness of an argument not context dependent.</td>
<td>Context dependent (e.g. time and resources); considerations to be ranked in impact.</td>
</tr>
<tr>
<td>CERTAINTY?</td>
<td>Premises and conclusion can be certainly or conclusively known to be true.</td>
<td>Plans neither true nor false. Satisfactory relative to changeable goals and situational perceptions, truth value determines satisfaction.</td>
</tr>
<tr>
<td>VIRTUE</td>
<td>True belief/knowledge or wisdom in the mind.</td>
<td>Practical wisdom of action in the world (prudence) or disposition for such action.</td>
</tr>
<tr>
<td>INCONSISTENCY</td>
<td>To be avoided. Always (possible and desirable).</td>
<td>Pragmatic inconsistency cannot be totally avoided but only contained by hierarchical prioritisation of goals.</td>
</tr>
</tbody>
</table>

Moral reasoning is a type of practical reasoning. It directly concerns what we are to do or make, not believe. In this it resembles reasoning in those disciplines or subjects like art, carpentry, engineering and architecture which wish to, plan for, and/or do bring something into being, rather than theoretical subjects like natural sciences or the social sciences which primarily try to describe and explain connections between things which exist already. Kenny has shown that practical and theoretic reasoning are different but related systematically as the satisfactory to a goal to the satisfied.²

² Kenny, A "Practical Inference" Analysis, XXVI, #2, 1966. Although much progress has been made this century, practical logic - the logic of practical reasoning – will not be formalised in a finite set of
Kenny has also drawn attention to the very important limitation arising from the notion that any piece of practical reasoning can be assessed in different orders, with respect to (secundum) different considerations, eg the inherent worth or ontological “height” or nobility or fineness of the good in the chain of beings vs. the urgency of the good in question; the intention vs. execution of the relevant action, the order of efficient causality vs final causality and so on. An object may have a different ranking with respect to two orders. To take the second case, what is temporarily first in intention and /or worth may be last in execution and time (prior in intentione sit serius in executione); what is inherently more ideal may not be worth pursuing in practice at a particular time or be better (when it is sought), but sought less often, or less urgently, eg. meditation or creative artistic work.

However despite the impossibility of formal deducibility, the discovery of the mirror relation (see row 8 above) still seems important. Practical reasoning builds on theoretic and this gives assertoric reasoning an ultimate edge. It is known that there is a systematic relation between the “satisfactoriness” of a plan, wish, or order (e.g. Put the cat’s food bowl in the garden) relative to a goal (the cat’s being out of the house) and the truth of the corresponding conditional assertion (e.g. If you put the food in the garden, the cat will not be in the house). In this example, that claim is probably often false, so the plan is not very satisfactory! Even if “the bowl is in the garden” is satisfied, the cat is out of the house might not be satisfied. But often we can make satisfactory plans relative to a desired goal. If John wants to get to Melbourne from Sydney in 2 hours, and flying will bring this about, then John’s flying is satisfactory relative to his goal of being in Melbourne in 2 hours. There being daily flights makes this plan a good one given his desired goal because “John boards the plane” means “John is in Melbourne” will probably be satisfied (in 2 hours). John should therefore fly to Melbourne unless there were other overriding contextual conditions e.g. he has insufficient money for the airfare or fear of flying. Practical reason is the “mirror image” of theoretical. If it is true that: if P is true, Q is true (symbolically P→Q), then if I want Q I should choose P i.e. Fiat(Q)→Fiat (P) because P→Q.

The moral implications of this line on practical reasoning are interesting. The table below attempts to suggest some of them

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<table>
<thead>
<tr>
<th>Rules of Inference and Axioms</th>
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<tbody>
<tr>
<td>(a) Power, operation and perfection, inherent and consequent.</td>
</tr>
<tr>
<td>(b) Intention/Execution.</td>
</tr>
<tr>
<td>(c) Time and Duration.</td>
</tr>
<tr>
<td>(d) Dependency/Independence.</td>
</tr>
<tr>
<td>(e) Theory/Practice etc.</td>
</tr>
<tr>
<td>(f) Discovery/teaching</td>
</tr>
<tr>
<td>(g) Divine/human</td>
</tr>
<tr>
<td>(h) Inherent worth/desirability</td>
</tr>
<tr>
<td>(i) Theory/practice</td>
</tr>
</tbody>
</table>

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### The roles of reason in teleological virtue ethics (TVE)

<table>
<thead>
<tr>
<th>I</th>
<th>Starting Point</th>
<th>2. Assertoric</th>
</tr>
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<tbody>
<tr>
<td><strong>1. Practical</strong></td>
<td>Universal wish for optimal human realisation (eudaimonia) vaguely conceived as 'optimal well-being' with some added criteria* &amp; ends making up content of wellbeing</td>
<td>Apprehension (inchoate) of truth about one's human nature and its goods &amp; apprehension of facts about ends of wellbeing's satisfiers.</td>
</tr>
<tr>
<td><strong>II Characteristic Objects</strong></td>
<td>(a) Expressions of desire, commands, precepts, laws and other imperatives, self addressed and addressed to others conceived as part of search for specific goals powers and needs i.e. for content/means re true well-being* (eudaimonia's) ends or goals as we conceive it to be.</td>
<td>Assertions of fact and true law-like generalisations about the world, including human nature (the person)</td>
</tr>
<tr>
<td></td>
<td>(b) Achieving <em>eudaimonia</em> so conceived</td>
<td>And its good (eudaimonia)</td>
</tr>
<tr>
<td></td>
<td>(c) Application of moral notions and precepts to 1. Real and familiar (old) 2. Cases to hypotheticals and vice versa 3. to real but 'unprecedented' new and complex cases</td>
<td>Apprehension of content of moral notions and evidential basis of precepts; comparative assertoric reasoning re similar cases of types 1, 2, 3 of column 1.</td>
</tr>
<tr>
<td><strong>IV Central Ethical Focus</strong></td>
<td>'Primary precepts of natural law, e.g. Don't murder (cross-cultural). Secondary precepts - culture relative e.g. murderers to be executed.</td>
<td>Rationale for these precepts in tendency to advance or hinder eudaimonia for all citizens of the community.</td>
</tr>
<tr>
<td><strong>V Typical General Principles</strong></td>
<td>Do good and avoid evil. Golden rule, the principles of non-Maleficence, Autonomy, etc. Rules of Professional Ethics.</td>
<td>Law of Non-Contradiction; Principles of Causality; Supporting factual generalisations drawn from social and natural sciences and metaphysics theory.</td>
</tr>
<tr>
<td><strong>VI Most Relevant Disciplines</strong></td>
<td>Applied principles drawn from disciplines to the right.</td>
<td>Natural and social sciences esp. anthropology, political economy, law, ontology.</td>
</tr>
</tbody>
</table>
Practical reason involves increasing levels of specification. There are vague ‘marks’ of well-being (of its component goods) such as ultimacy, self-sufficiency or autonomy of the person.\(^3\) The vaguest description possible of this human well-being is “living and doing well” in one’s life considered as a whole. (Austin 1967) Slightly more determinately it is a life which: (i) finds room for the pursuit of the highest objects/goods by the highest (most distinctive) human powers; (ii) it is delightful/ecstatic; (iii) it affords and uses leisure/play; (iv) it includes goods relatively permanent in their possession; (v) it perfects the person’s own powers in a cumulative way one can build upon (and is immanent in them); (vi) it consists of the attainment of ultimate goods not merely instrumental ones; (vii) it affords continuity of delight rather than episodic enjoyment; (viii) it is self-sufficient.\(^3\) Though not purely Western, neither are these marks part of a universal human consensus either. They are vague enough to allow for a range of different specific cultural embodiments: embodiments which can be revised in the light of scientific progress; and respect for our ignorance where appropriate. The “highest goods of the highest powers” test will certainly graduate the perfecting object/ends our capacities such as truth for intellect. Humans will make it on this test. Angels if any or aliens and other Beings with Very High IQ/well-disposed to humans-type; and God might be candidates for some. The marks can be thought of as part of the meta ethics of TVE. Master inclinations to self preservation, self perpetuation and self-development are expressed in the list of graduated ends which meet the marks above. These select worthwhile/ideal goods call for appropriate need-satisfiers in four main categories: conflict resolution/law to prevent wanton violence against the physical person; inter-generational, succession-enuring ethical/educational culture measures (J Thompson 1998); distributive justice and care for infants, the aged, sick and the powerless; and decent natural/environmental habitat.

The abstract, ideal set of ingredient ends or goods which the wise voices of the virtue-ethic tradition will tell us compose the most worthwhile life in the light of these criteria include things we often don’t recognise in our youth as being worthwhile - learning, service, creatively bringing good into being rather than just enjoying it passively, abstinence, ceremony, intimacy, scientific discovery, social contribution, and spirituality. Broadly they meet our physical, social and personal needs.

An alleged quasi-hierarchy of human powers with formal and perfecting object/ends and such higher powers as intellect and will at the top, perception and movement in the middle and the autonomic system at the bottom, generates a hierarchy of good ends and needed means by reference to the marks of happiness. Ends/needs cluster into three broad groups: physical, social and personal. In order of urgency, one’s needs require fulfillment in that order. The states of social peace, justice, and love/knowledge are correspondingly ordered in urgency. But the order of intrinsic worth is the reverse 1, 2, 3. Virtue tends to wellbeing other things being equal, but we can be unlucky enough to attract the attention of the wicked by our virtue and there are other luck factors like poor health or birth into a vexed situation. In the first of these cases however the response of inflicting evil on these aggressors and/or wickedness on our own part will not necessarily make things better. Threatening harm as a deterrent may be acceptable in accord with reciprocity, but it may sometimes be necessary to absorb a wicked attack rather than inflicting evil on others. Ordinary morality or decency strikes a balance between vengeance and non-violence, egoism and altruism.\(^4\) A wicked person who does materially well out of malice may seem to have attained wellbeing, but the tradition argues that there will be one person who knows his own worth to be poor: the aggressor, and he must keep his sins dark and his lies straight, paying a heavy toll in self and other deception (On this see B. Mayo, The Philosophy of Right)

\(^3\) These marks of wellbeing are collected from Aristotle and usefully listed by Aquinas at Pars Prima Secundae Q2, 4-8, 2, 5, 3-4; and Pars Secunda Secundae, Q180,1. They overlap largely with the marks of the organising principle in an architectonic relation. They are drawn from Aristotle’s Nicomachean Ethics.

\(^4\) Ethical rules concern only the band of moral activity not permitted, or required, not the other important moral modalities of praise, recommendation, and supererogation distinguished by Urmson, Chisholm, Prior, von Wright, and others. The process of casuistry allows for consideration and variable ranking of the same entity in various orders such as: causality, time, divine versus human consideration, intent/execution. The paradox of inversion between the order of urgency and inherent worth can make physical need the strictest of obligations. The rules against physical violence are typically the strictest in any civil society. The highest goods need not be always be pursued but retain their superior worth. See my “Wellbeing, rule, and conscience: the use of casuistry by professionals”, Professional Ethics, Vol. 7, #3-4, 1999.
and Wrong). The argument is not just an ordinary hypothetical of the form: “If you want X, do Y as a means” This is because according to the theory, if wellbeing is X, the antecedent is a necessary truth. Nor is it a categorical of the Kantian type: “Do X, eg follow the moral rule, no matter what”. Gavin Lawrence (1995) has thoroughly explored the sense in which one “must” (rationally speaking) be moral involved in a teleological theory of this type.

Given one can locate warranted desires i.e. some of the ends which qualify as ideal goods, requiring ‘needs’ satisfiers as means, one can offer reasons for moral precepts and negative prohibition of considerable specificity e.g. those against spite, murder, bias, fraud or theft. These are nearly exceptionless, ‘defeasible’ only by some specific countervailing consideration because the type of act/feeling in the specified circumstances-type is inimical to wellbeing, and the wish for wellbeing is inevitable. Typically moral rules involve emotions or actions of a certain type in a type of circumstance which is important to our wellbeing, and one in which we are tempted to go astray. Casuistry can deploy practical reasoning to show the necessity for more specific precepts than those prohibiting murder, theft, and fraud, such as intermediate norms or particular measures for addressing problems within a domain like that of the state or organisation. Likewise for sectors such as the public sector, social policies may be needed to address particular socially constructed injustices, and environmental vandalism. However, the range of principle, precept, and rule is limited. For the rest, appropriate dispositions of character and the use of casuistry by conscience have to suffice. There are approximately ten value/moral modalities. Good/bad and right/wrong though different notions are related because virtue tends to wellbeing. If X is good or bad for wellbeing this abstract categorisation clings to it even if it is morally cancelled. Eg. killing is bad even when it is justified as right morally; sexual orgasm is good even if judged morally wrong as in adultery. The ten modalities are:

1. Most desirable- (e.g. assimilation of the highest good is most desirable. One would enjoy this in the presence of an ecstatic/unspeakable Good)
2. Heroic e.g clinging to the good in face of a great evil/danger/ acting beyond the call of duty
3. Praiseworthy/ worthy of honour / admirable, morally or non-morally
4. Required/Obligatory/Compulsory/Duty
5. Encouraged/Enjoined/Commended/Advised
6. Permitted/Allowed
7. Indifferent
8. Discouraged
9. Prohibited/Forbidden
10. Disgusting e.g. Unspeakably Bad or wrong

At 9, the very strictest moral and legal rules are those against damage/harm/injury/violence to life and physical integrity of people, or to their means to basic physical need satisfaction. Positive rules at 4 and especially 6 are indispensable to this kind of moral system , but not the whole focus. Ideal end/objects of power for example are not required to be relentlessly pursued as dominant ends or perfectly attained e.g. omniscience is unnecessary for intellect. No rule requires perfect satisfaction of need, even physical. (Only normal/basic level of satisfaction). Often no explicit rules exist against type 10 acts, or for 1, 2, 3, 4. They are simply exhortations or counsels of perfection /excellence. Warranted goals include all of 1-6. We are free to select means from a manifold only partly constrained by ethics.

Thus TVE is not just a principle / rule morality in that sense. But unlike the particularist concept of ethics it does strive for what it regards as possible consensus, coherence and consistency, and insists that it is wrong to deny the crucial role of rules in bands 4, 6, and 9. They reflect a potential consensus. Such rules of morality can only be breached if casuistry permits through educing of particular additional circumstances which defeat the rule and render excusable a particular breach. These circumstances must truly/actually exist in the case. If we are in fact inconsistent in our moral practice, this is as regrettable as an inconsistency in science or theoretic reason and should be corrected where discovered, not accepted meekly as inevitable. Virtue ethics has the advantage that it has a place for passion as well as universality, objectivity, and principle. Principle and rules which specify types of circumstance or context can help to guide and control the passions through virtue for the sake of wellbeing without exhausting the scope and motive of morals. Thus universalism at an abstract level is offset at particular level by use of practical ‘determination” in a way slightly different from Kantian formalism. Kantian universalisability peters out at the level of universalisable maxims in a way that upsets post-modernists, deconstructionalists, and particularists, but frustrates them because they cannot claim that their own universal negative: “There are no universal moral principles” is true without self
contradiction. It is wrong to imperialistically expand the scope of rules but equally wrong to restrict it since rules do play crucial roles in 4, 6, and 9 above.

Ideals, values, principles and rules of morals can assist persons to use their powers well for the sake of attaining their wellbeing. Principles and rules play a helping role in practical reasoning (determination), but casuistry is needed to apply them in particular cases. Also when and where there are no rules, or they conflict; or when ideals are realised by particular choice in matters going beyond the obligations presented or recommended by rule. At the highest level of personal moral modality, saintly and heroic self-commitment, as in marriage or vocation choice, rules are silent.

Contrary to the view of cultural and moral relativism, at high levels of abstraction there are some uncontroversial widely, indeed almost universally, accepted data concerning human capacities, desires, basic goods, needs, and the human condition. There is also a small but significant corresponding body of agreed understanding of the facts about ethics and a body of presumptive universal ethical imperatives. As one becomes more specific about the meaning, denotation or embodiment of key terms in these imperatives and ethics discourse, this consensus evaporates. But we can identifying some of our molar human capacities and desires, and their essential ends/objects-their characteristic targets and perfecting states/performances/activities. Intellect, for example, targets truth and knowledge, and is perfected by wisdom. Some vague but not insignificant clues to the content of the human good or wellbeing, abstractly conceived, allow evaluation of more specific human ends to take place by reference to the clues or marks noted above. Some ends fail to match these marks and can be discarded as ingredients of a good human life, such as pleasant states achieved only by ingesting strongly addictive substances which rot one’s teeth, or one’s autonomy. We can thence arrive at some understanding of the way in which we reason from ends to act-types as means in types of circumstance and thereby generate some evaluative principles and imperatives of an indeterminate but non-trivial kind, and we can come to an understanding of how precepts are generated.

It is also possible and useful to note some of the connections and distinctions between this actual consensus and morality. There is a definable level of specification and particularity at which such a human ethical consensus exists and evaporates. It is worth marking out the consensual material, and marking it off from where it is just a conceptual mistake to look for a consensus, not a regrettable failure of human minds to meet on questions of value. For example, each culture is essentially constituted by its different means of embodying the same ends. Means to ends are essentially multiple, and at the level of unique particularity/idiomsynarcras, which will be explicated in the model presented below in Section 2 as level 7, and Section 3 as step 4, it is simply a mistake to look for consensus, not a proof of relativism.

Section 2 sets out a suggested way of understanding the extent of the moral consensus with respect to the example of killing a person. It does this by reference to the notion of levels of abstraction already mentioned. It offers a rational reconstruction of how we might understand consensus breakdown in terms drawn from the vocabulary of Natural law/Virtue Ethics and casuistry.

It assumes that it is possible to sidestep the objection that there is no consensus in Philosophical Anthropology by reference to a notion of levels of explanation based on the work of M. Polanyi, E. F. Schumacher, Charles Taylor, J. Searle and other non-reductivist but non-immaterialist accounts. The idea is that certain horizontal conceptual connections between human phenomena are part of the data to be explained, and will never be explained away completely from below by vertical causal accounts from the material sciences of the brain and nervous system. Hungry people will still want food and drink eg and fear is a desire to avoid some evil/danger. Intellect will decide when a satisfactory material theory of mind has been presented, and it will not succeeded if it is totally reductive of mental appearances/phenomena as illusory.

Section 2: What sort of “ethical data” is there?

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5 See references at the end of the paper As in many other non-mathematical/scientific subject areas, there is no single accepted ethical “theory” about the completeness and consistency of this attitudinal and behavioural data, or about how it originates
In the first part of this section, the example of “killing people”, which is a type of act which tends to be regarded as cross-culturally evil, even when excusable or permissible, and so prima facie or presumptively unethical/wrong, is used to explicate the idea that there exists some such ethical data. Precepts discouraging killing as in some way regrettable, especially killing people and higher animals, are cross-cultural givens. Prior to the abattoir, this regret was shown even when killing animals was necessary for human survival, as was the case with native peoples in many lands. Precepts against killing people travel well across time and place and are good examples of ethical principles and precepts. In other words, they exemplify an important part of the prescriptive/imperative structure and content of ethics. However this section contrasts the likelihood of consensus associated with consideration of the nuclear act of killing, in different circumstances and at differing levels of abstraction. At a higher level of abstraction, banning the killing of anything on the phylogenetic scale would be senseless and impossible, and there is no such moral principle or rule. Even “harming an animate being” of which killing is a quasi-species is something many cultures permit. But it is widely seen as a worse thing to do wantonly, with no reason, and prima facie wrong (to be avoided) as we move up the scale to the higher animals. Its much less abstract subtypes, like “mercy-killing” or euthanasia of a person are not part of the consensus and controversial. We quite reasonably alter our judgment on the possibility of consensus depending on this choice of level of generality or abstraction, words qualifying the evidential authoritativeness of assertion like prima facie, or degree of rational consideration of intent like wanton, and on the presence of more specific circumstance types. In the ethical assessing of a type of act, the process of increasing “specification” has to do with restricting the class of the object/end of the act or feeling and dropping words like the disclaimer “wanton” (for no good reason); or with removal of qualifiers like prima facie associated with the notions of presumption and defeasibility and/or ceteris paribus background assumptions of normality and absent interference. Most often it involves adding in types of circumstances to describe the type of act we call killing; and the particular details of the token, instance or individual case at hand. This is a process associated with the word “casuistry. It will be set out in Section 3. Some argument will be offered for some of the points in this second section, but it will present some concrete prescriptive data as data, not try to draw it out as a conclusion from other deeper premises. It will not offer a conclusive argument for the truth or completeness of that data. In other terms, it locates a part the data or explicandum of ethics, not its explanation. Hopefully, if this section is acceptable, then the argument will not be dismissed as either too banal by the empirical social scientists or too full of contentious generalisations by the “particularists” and the post modernists.6

The suggested way through this sort of dilemma is as suggested to advert to the key role of the notion of “levels of abstraction” and determination or specification. Virtue Ethics is both ancient and plausible. Our undeveloped capacities and vague orientations conceived at a high level of abstraction, are very similar, eg besides our want to escape violent death, we want to make friends, know the score, make the most of and enjoy life. For example, humans can understand and wish for the truth, and truth-telling is normally encouraged and lies discouraged. As children, we are curious by nature. We want to be informed and not lied to; and so when we grow up and reflect, we recognise that, if we value the truth about things and being told the truth, so do others; and if we and others do actually tell the truth, we are more likely to be told the truth than if we all seek to be “free riders” on the system. Lying cannot be the norm. Likewise for having bodies with a capacity for pain, we all tend to want to be safe from harm; and normally accept a general imperative against harming others. We have social capacities and desires which ground our not wanting to be cheated and defrauded; thus the imperative to be just and rules to express the wish not have one’s goods stolen; and rules against fraud. There are in short some ethical values and principles, like truth and life, fairness and the golden rule, which travel well across space and time.

Against this incomplete sketch of the background, let us begin then on the exposition of the model of specification in question. At the highest level of abstraction, human beings with basic human capacities and inclinations seem to accept some basic ends are good and follow a principle like:

(1) "Human life (existence/true good) is good"/ “Seek perceived good and avoid evil”.

6 In fact, the idea is to get between the horns of the dilemma: either you are “discovering” specific new empirical truths from an armchair or you are ignoring the uniqueness of each situation in favour of some vicious abstraction.
The good here is not exhausted by the moral good, but denotes all and any of the components of the (perceived to be) fulfilling good of our nature, including beauty/truth/unity. Pursuit of perceived good is something we tend to actually do, if read as an assertion. It is also a master imperative of practical reasoning, which operates as a self-addressed ideal. The ancient and medieval virtue moral philosophers, perhaps presuming the principle of reciprocity “Do as you would be done by” to be reasonable, took the active variant “Do good and avoid evil” to be a first principle of such reasoning about feeling, doing and making things. “The good” in (1) meant the good everywhere, in natural living things, artificial entities, and rational beings like humans. This they called “the universal good”. We are curious about the good and do at least idly wish for our own good as we see it, and so they thought that to be rational, we should seek what we believe to be truly good for humans as a norm. They believed that we do act in the belief that our act will bring this good, even when we are mistaken or wicked. (quidquid appetitur sub specie boni). There are clues or marks of this sought after well being. Other people are also part of the good in this sense. Abstractly considered, the being, capacity, and wellbeing of any person is, as such, a good also for many other persons, and some would say “a good thing” just so described compared to that of a plant, animal or stone. It is intuitively better than that of an animal plant or stone; and/or it is better than non-existence; or a void. Let us call this sense of goodness “ontological goodness”. To adapt the famous runaway trolley example, one should choose the person rather than the cat if one must die. Again, sacrifice a kidney or a toe rather than an eye or part of one’s brain function. A Kretzmann/Stumpf hierarchy of being is not necessary to ground the idea of the good of respect for minds or persons as such, or the idea that this respect is warranted to a greater degree than for non-sentients. Nor is it necessary to explain the claim that any human has some worth qua human. It might follow from other premises such as their potential to develop; or to contribute to others, or to be objects of compassion, or as commanded by an imperative of conscience to value persons as such; or their being children of God. Both the greatest happiness of the greatest number and universalisability principles take the principle that each person is to count for one seriously. They thus capture the intuition of respect for persons. But in any case this goodness of the human life of a person, conceived as being either inherent ontological, or instrumental, or divinely conferred, is taken as part of the universal good and a basic datum in ethics. Even Hitler was once a child, and in this abstract sense, a good being qua person. So wicked was much of Hitler’s moral behaviour that it would probably have been better, in the end, for the rest of us had he died of his injuries inflicted in World War I. But would a pre-emptive killing in 1922 have been justified?
If we move from this very high level of abstraction to the more specific moral realm - the realm of principles and precepts for guiding deliberate human action and interaction in respect of persons- we arrive at general value claims and principles like:

(2) Human wellbeing requires security from harm, fair treatment, companionship knowledge and culture, beauty and habitat. Therefore, (i)”Do no harm”; (ii) “Act justly/reasonably” (iii) “Do as you would be done by.”

How are these principles arrived at? Principle 2(i) comes from (1) above; Principle 2 (ii) asks us to treat like cases alike, and seems intuitively powerful; principle 2 (iii)-the golden rule—cannot be easily be derived deductively from any more foundational imperative principle, and “do not do as you would not be done by ” likewise. Ancient philosophers after Plato said of basic (or “first”) practical principles, like (1) above, and also of the parallel theoretical or assertoric principle: “A thing cannot be F and Not-F at once”; or, “A proposition, P, and its negation, Not-P, cannot both be true at once”—that only informal arguments are available for the truth and/or utility of such principles. These arguments appeal to the self-denying futility of the rejection of such principles i.e rejection of these principle causes paralysis and frustration with respect to systematic science and co-operative work for mutual benefit. Rejection in the process of making assertions of the ideal expressed in the so called “principle
of non-contradiction” above tends to lead to intellectual incoherence. Setting special contexts aside, rejection of the law of non-contradiction for assertions; or of the golden rule as an imperative for practical reasoning, leads to perceptions by others of folly, inconsistency, unfairness and hypocrisy. Such rejections bring these perceptions about by at once denying and relying upon what is known with respect to defining what the most worthwhile human life looks like and how we might jointly attain it.

If we do reject this sort of futile, intellectual and moral scepticism, then we do (and therefore can) attempt to give an abstract account of human well-being given the reciprocity reading of the golden rule, and some data about our common needs. From “do as you would be done by”, and the account of “what we would” ie what we wish to attain in terms of our own well-being given our species’ capacities, we can generate more specific precepts and virtues. There is thus a “reciprocity” requirement at the heart of any ethical scheme. To illustrate the notion of levels of abstraction/specification and diminishing consensus in assessing the good/rightness of an act type, (which forms the basis of the ethical decision process called casuistry), let us look at the example of killing as a species of the genus “harming”.

If living beings are ontologically and/or instrumentally good, wanton extinguishing of any person's life, and to a lesser degree other animate beings is prima facie wrong. Even in the case of Hitler, it is Hitler’s bad moral behaviour we primarily condemn, and his birth consequently because it was a necessary condition of that subsequent ocean of evil moral activity, itself the expression of “disordered” or defective moral dispositions of character. But we can still recognise or assign value to his life. So we arrive at a more specific principle than 2(i),”Do no harm”:

(3) “Do not wantonly kill animate beings, especially people” Because we wish not to be harmed/killed, and given principles (2)(i) and (2) (iii) above, wanton killing of living beings and persons is prima facie wrong ie unless there are further extenuating circumstances. The precept: “Do not kill” has presumptive validity and the onus is on the killer to overthrow or “defeat” this presumption. For this reason, such precepts are said to be “defeasible.” This suggests the next step of specification: The specific objective and end, what and why, of a human act type give it its prima facie “quasi-nature/substance”. But descriptions of human act-types like “wantonly killing humans”, without further circumstances noted, presuming only some intent or other and some motive sufficient to cause death, are universally thought bad, not good or indifferent, in our abstract understanding. One can say without further circumstances being specified that prima facie and abstractly, killing is bad, especially for humans, and perhaps that all wanton killing wrong. At the next stage of specification we can fill in some more precise circumstances to move to

(4) “Do not murder”, where murder is: “the knowing and deliberate killing of an innocent person who has done no harm, or threatens no such harm”. Here is an almost exceptionless precept with travels well across time and cultural differences. The decision on rightness expressed in: “This is to be sought/permittd”; or on wrongness: “This is to be condemned/avoided”, is based on the type of act in the type of circumstance understood at this step. The recognition of the inherent badness of killing, and wrongness if wanton is unchanged, and consistent with the cultural relativist point about former acceptance in some cultures of now abhorrent practices eg of voluntary ritual sacrifice or headhunting to acquire tribal strength from the cannibalised foe, or child sacrifice to appease the anger of the gods. These were indeed once thought acceptable mores by some groups of people. These were based on specific factual beliefs which, if had shared them, we might well have seen these practices as reasonable responses to such “facts”. And perhaps their intent and false beliefs show that they did not murder their victims. Also at this level, lack of knowledge and or intent is often excusing, although not if one ought to have known. Lawyers will argue that when we consider killings in such circumstances as do, or at least might, overturn the presumption in (3) above, circumstances, which do arise, it seems possible to excuse killing in several kinds of circumstance. For example, when “killing a person ” is unforeseen, accidental, unintended. If the excusing conditions are self induced through alcohol abuse, most will condemn the killer. In law, a corporation can be held liable for unintended killing through strict liability provisions, but this is not uncontroversial or a universal norm

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10 The law of non-contradiction does not hold in a number of specific contexts: where a special interpretation of words like “true”, “is” and “not” is stipulated in a formal system; or the implicit restricting conditions “ at the same time and in the same respect” are not met; or the condition that the context be extensional and the terms involved must be determinate is not met. In the intentional context: “They believed/wished that they were in Rome”, the truth-value of “They were in Rome” is independent of that of the belief/wish.
(5) However, as we come down further from this still abstract level to the next more specific level we begin to lose consensus. Humans enter into domains like families, states, organisations and markets. Organisations fall into broad sectors such as public, professional; and private with specific need satisfiers as their focus/agenda eg. security for police and military; due process for lawyers; consumer satisfaction for business. And this is reflected in more specific controvertible principles and norms at Level (5). Police and military will argue that it is permissible for killing to be done as the last resort to save one’s own life, or that of innocent others, or the nation. With regard to so called just wars, (such as many believe the war against Hitler to have been); police actions; and capital punishment come under heading (5). We have lost consensus. Proponents of non-violence, and pacifist Quakers, do accept type (4) cases as excusing, but do not accept case just war exemptions. Even those who allow them in principle may question particular state arrangements for capital punishment, or those who doubt whether the conditions of just war can actually be met in the modern age, will not agree with the majority, who do approve of these killings. This is so even if they are alleged to have been carried out under conditions which just war supporters are prepared to spell out, such as the so called criteria of the “just war”- right intention, just cause, legitimate authority etc.

(6) Further, there are several kinds of circumstances in which even an act/circumstance cluster, which meets the conditions, defined by “murder” (the knowing and deliberate killing of an innocent) at step (4) may yet be permissible because a term’s reference is unclear or further circumstances are added. Some of these hard cases are:

(a) where one can question the reference of a key term: the object of killing is a living, human being who will become a mature person unless prevented, but is alleged by some party to not yet be a person on some purported criterion (the abortion question). Many citizens and some medical professionals feel that families and even states should be entitled to terminate unwanted pregnancy.

(b) Added circumstances: the object of the killing is a person but there has been added four further circumstances:
   (i) the person has asked to be killed;
   (ii) the person faces imminent death and will not recover their powers;
   (iii) the reason in (i) is to avoid some grave evil eg excruciating pain, catastrophic costs to relatives (the euthanasia debate);
   (iv) competent independent and/or professional authorities have been consulted and agreed on (ii) above. Once again, these matters are alleged by some to be sector and domain-“sensitive” “subject to social and professional norms

(c) Breaking the rule to attain its point: there is a near-certainty that many more will die if a few are not deliberately sacrificed eg the (true) case of a naval officer who following a sinking admitted only those who could row to a life-boat built for half the number in the water prior to a storm. These people were saved. The court found him guilty of murder, but dealt out no punishment.

(d) Double effect: innocents are killed “accidentally” as “collateral damage” in a “just war”. Thus eg 6(a) “Abortion is wrong” (eg) or 6(b) “Euthanasia is wrong” is a (contestable) but more specific moral precept than “killing is wrong” or even “murder is wrong. But its wrongness can conceivably be outweighed, or its status as a murder questioned on the ground that a foetus is not a person or there is an implicit cause in the definition of murder “against one’s will”.

(7) The ultimate in specificity is, of course, the particular agent in the particular case, Dr. A “killing this foetus here now, or injecting this particularly circumstanced patient now” or Officer B saying “I will cast this (otherwise healthy) non-rowing person adrift”. (This is the sort of judgement made at step 4 in the casuist process to be explained presently)

To say X is morally wrong is to say that this imperative precept ought to be part of the consensus, not that it is. But moralists must be concerned if the consensus drifts too far away from reflecting the ethical data and the ordinary moral presumptions, and moral philosophers should be trying to bring about a consensus around what they take to be morally correct. Consensus can be found for some important level (1)-(4) imperatives, but not (5)-(6), and at (7) it is impossible, even if (as is unlikely) everyone might or would have judged the same in this unique case. Individual judgements in individual cases cannot turn upon actual consensus. Counter factual like “ Anyone would have approved the same
decision in such a case as this” can be claimed but this quasi-Kantian ex post universalisability claim is not an antecedent stand alone test which can substitute for casuistry. One might try to make up a complex maxim to deal with future cases like 6c above but this will not be practically usable. We have reached the practical usable limits of moral generalisation. At the highest level of abstraction, (Level (1)) “Doing evil” is to be avoided on principle. At the next (Level (2)) wanton harm, irrationality, and injustice are to be avoided, and reciprocity is required, intellectually and morally. At the next, more specific level (3), wantonly killing animals and people is bad, and prima facie or presumptively morally wrong. And further circumstances can lead at level (4) to a more specific precept: “Do not murder”, which is, or is very close to being exceptionlessly wrong, and positively to a general judgement that accidental killings can usually be excused. But at level (6), with just wars and police use of lethal force, we lose consensus, and the consensus tends to break up even more sharply around nuclear war; abortion is wrong or euthanasia being wrong. Case 6(c), although a kind of case, is almost unique, and shades off into case 7. At the individual level, (7), this killing of this human being here now in these particular circumstances - the rules have done all they can to settle the issue, but they cannot judge and even in cases of type 6 they can conflict. It is qua individual case for conscience to make a decision on unique, idiosyncratic particulars, invoking the lesser evil principle and perhaps others like double effect.

Down to level 4, the prohibition of murder/excusability of accidents, we increased specificity, passed judgement on a type of act in a type of circumstance, and did so without destroying broad moral consensus. The decisive role assigned to circumstances is first noted by Aristotle and Cicero lists circumstances also and the list is consolidated by Aquinas as Who? To whom? What? Where/When? By What Aids? Why? How/How much? Aristotle’s original doctrine is one, which assumes the existence of types of act, and the lists the types of circumstance. It treats circumstances like accidents of the substantial action-type undertaken, as for example “knowing” and “deliberate” might be contingent circumstance-types of “killing” as a type. One can kill by accident, and/or without wanting to. Such circumstances of action types are teased out by giving answers to the above set of circumstance-questions. Within the circumstances, the questions What? and Why? are the crucial questions. In the final decision on the actual or contemplated individual /real act, the actual contingent/accidental circumstantial intent and motive of this (the instance or token of the act performed by this agent here and now) is decisive. This is what he/she is doing in performing the type of act; it is the instance or token of the type, and thus settles the remaining circumstances. This idiosyncratic account of the unique intent (what) and motive (why) provides the description of the act to which the answers to the other questions, like where and when, provide further circumstances. This casuistic method is spelled out further in Section Three.

Section Three: Practical Moral Reasoning and Casuistic Determination

The process involved in the step of “determination”, in which we passed from the vaguer rule about doing no evil to doing no harm; to not wantonly killing and not killing people; to the more specific rule about “not murdering”, in Section 2 is reconstructed for purposes of illustration below for several further cases of act/circumstance type. The method of casuistry (object, end and circumstances)

11 in Nichomachean Ethics, II,6, 1106, 36 to 1107a25;II,9,1109a1-15ff; III,1,1110b24-1111a3-7;and V,2,1130,24ff.
12 in On Rhetoric, I, 24
13 in Summa Theologiae , Ia Iiae, Q7,4; and 18-21
14 The types seem to partly overlap with Aristotle's substance-categories distinction for objects.
15 E. Anscombe in her monograph Intention and an article called “On Brute Facts” (1958) usefully distinguishes “leaving some potatoes on my doorstep” as a brute fact relative to “ The grocer supplied me with potatoes” and “I owe the grocer $x for the potatoes”. The latter two are progressively more specific descriptions, based on, but irreducible to the former plus some added factor. Clearly we are capable of agreeing on the brute facts in institutional contexts against an implicit background of social practices which cannot be made explicit. We do so without articulating or agreeing on the more specific descriptions relative to which this fact is “brute”. Example “moving a piece of metal” is brute relative to “moving a handle up and down”. Her point is that this process cannot go on to infinity. We just do agree at some point, or the analytic process cannot begin. There is and must be a possible consensus about acts even though we cannot finitely list all the things which can go wrong. Some of these are ethical judgements are about types of act in a type of circumstance.
generates at least some moral universals which are not derived from procedures like applying the greatest happiness principle or the categorical imperative, but can generate near-exceptionless precepts, which are defeasible only by adding further (usually extraordinary) circumstances, appealing to some socially sanctioned professional exemption, or one of the reasons listed below as constraining the applicability of rules. The process is spelled out further as follows:

**Step 1: Object/end, take #1**

Identify a kind or type of act or feeling, using the word which best describes it, and supplying where appropriate grammatical expression of its substance. For example:

- Speaking the truth is a kind of action. In “speaking the truth”, the verb “speaking” marks the kind of act / “the truth” is the completing object of the verb. “Speaking truthfully” would be an equivalent form using a participle plus adverb form. In the jargon of casuistry “that the truth be spoken” would express the “object”, or phrasic in Hare’s terms, and “let it be: that the truth is spoken” would capture the “end” of the act.

- One can perform parallel analysis on “giving money”, into “giving” and “money” and “let it be: that money be given”.

- For “compassion for/ a bereaved widow”, the object of the emotion of compassion might be “Let it be: that the widow not suffers unbearably” or “that her grief should pass”. Other examples of types of act or feeling with object/ends are:

- fear of/ snakes; driving/ on the footpath; killing/ a person; scratching/ one’s beard
- walking/ home; watching/ a sunset

**Step 2: Object/end and the good**

Assign the abstract type of the act or feeling a prima facie status with respect to its tendency to advance or retard the attainment of human wellbeing. The act or feeling type will tend to be good, bad, or indifferent with respect to animate wellbeing. Killing other humans is for example is bad for them; destroys human potential; and does no good for the person of the killer. Even if and when it is morally justified as self defence, this badness remains. And if an act is basically good, its goodness also inheres in it even if other circumstances render the complex wrong morally. This judgement is made at a level of abstraction slightly greater than level (2) of Section 2; it applies the notions of harm, rationality, reciprocity and fairness.

At this step “wellbeing” is conceived vaguely and abstractly. But this intuitive judgment can be guided by one’s notions of the human good as measured by the slightly less vague criteria for wellbeing called marks above. For example, as already indicated it is a state in which one exercises and enhances one’s distinctive human powers, such as intellect and will, about their highest and best objects, whatever these turn out to be. One enjoys autonomous exercise of the dispositions which perfect these and other powers; and attains in some measure those enduring ends like creativity, knowledge and friendship which have more than instrumental, ultimate value and are capable of cumulative development. Against the standard of these admittedly vague intuitions, one assesses each type of act or feeling’s tendency to promote the peak exercise (highest goods) of the relevant human capacities of agents and patients in the context. For example, to take the examples listed in step 1 above, truth is a peak outcome for intellect, a higher power, both efficiently and finally, so “speaking the truth “ looks prima facie to be good; “giving money” is usually a voluntary act of will which normally empowers people to meet the needs of either the donor or the recipient with respect to their wish for wellbeing. “Feeling compassion for a bereaved person”, judged by the golden rule seems good; “fear of snakes” would seem to be indifferent, till we know if it is a venomous snake, but if it is, then some degree of fear is reasonable if the bodily capacities will be impeded by a bite and fear is ideally targeted on warding off real danger; “killing a person” and “driving on the footpath” would seem abstractly and prima facie to be a bad thing to do; “scratching one’s beard” and the remaining candidates above seem prima facie to be indifferent.

None of these uncontextualised possibilities are definitive moral judgments yet; but only judgments based on prima facie tendencies to exercise capacities well or ill, and so to advance persons toward a worthwhile life, toward natural human “species – wellbeing,” flourishing, happiness or wellness.

**Step 3: Add the other circumstance types and review object/end of the act:**
Add further information about the type of circumstances with which the act or feeling type is surrounded, using Aristotle’s list, which has now become the journalistic template: Who? to or with Whom? What? Why? How/how much? Using which instruments? When? and Where?

This will allow us to embed, and then evaluate, the type of act/feeling in a type of circumstance, arrive at a preliminary abstract moral judgment, and occasionally at a more decisive one: for example, “the deliberate and knowing killing of an innocent person” specifies what, whom and how the killing takes place. It has a name: murder. This is a recurrent and important cluster of act/circumstances, where we have done the deciding once and for all, and have deemed that it is presumptively wrong, ie the act of murder was and still is judged morally wrong. (It is not yet thereby decided if all abortions or acts of euthanasia are wrong because there is dispute about personhood in the first case and further circumstances re consent and terminal illness can be added in the second). In monogamous societies sleeping with someone else’s spouse is adultery; giving money to a public official to obtain unfair advantage is bribery; unpermitted taking of the property of another is theft; and presumptively wrong.

More often than not, however, there will be no such name for the act/circumstance type of cluster or “recognitor” (Kovesi, 1963), but if one follows this process one will at the least know what one is doing and why. For example, the recognitor “appointing a friend on a basis other than qualifications to a job advertised as requiring qualifications” may not have in a particular culture or language a precise name like murder, but it smacks prima facie of “cronyism” in ours; “jailing without due process” or “destroying a forest” have strong moral overtones and that is an excellent protection against moral recklessness. Absent added circumstances, they are wrong because of conflict with higher goods/rules.

What results from this analysis is what Kant calls the maxim of the act: eg hiring a person who is a cousin on a basis other than merit for nepotistic reasons for a job advertised as open. In a society in which that practice is the tribal expectation, this may not be easy to evaluate morally. The test will be: is this sort of thing the best use of the human potential of all the persons involved in this case given some latitude must be allowed for customary differences of practice provided the basic end of the practices and norms is humanly worthwhile? The level of abstraction is roughly level (4) of Section 2. Kant's formula for evaluating the maxim of an act would be the counter-factual: “What would happen if everyone did this sort of thing in these sorts of circumstance?” But the circumstance who? is not considered to be strictly relevant by Kant except as it shows some general features. For casuistry however the question who? is always relevant and the issue here would be: what happens to the people actually involved and those immediately affected if the relevant agents actually do this sort of thing? In this kind of analysis, the question what? goes first to the question of the immediate, direct result brought about by the act, what must logically or causally have taken place for the act to be truly said to have been performed, and not to indirect later consequences. If the window was opened the window is now open (result), but the room may or may not be cooled as a consequence. It may be foreseeable/probable, actually foreseen, or intended that the consequence follow, and indeed various combinations of these three conditions may obtain. But they are not essential to the act/result itself for the casuist, and do not necessarily outweigh the immediate act in moral relevance. This result/consequence difference is widely assumed by some ordinary language philosophers and philosophers of the Utilitarian school of ethics to be only one of degree. Casuistry denies this.16 17

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17 The topic is complex, but the issue is vital to casuistry if it is not to collapse into a very rubbery ethics where one can subjectively “intend” any consequences one likes from one’s acts. Consider the “collateral damage” of which military spin doctors speak; or the “ intent not to have to use nuclear weapons” or their intent that there not to be deaths from nuclear weapons. All such talk is acceptable to many forms of total or act utilitarianism, which work backward from aggregated outcomes to causes to assess morality. But, for casuistry, it is always logically possible and necessary to ask: consequences of what? And casuists assign special weight to the nature of the act itself from the time it is identified at Step1. At Step2, in assigning a prima facie good/indifferent /bad evaluation to the act itself, one thereby assigns the initial onus of proof to the “defence” or “prosecution”. Step3 gives the preliminary reading on the agent’s intent and motive and a first take on its morality before performance; and as suggested by the above nephew/murder example and some of the examples below, intent and motive can sometimes presumptively almost nearly determine the moral status of the act as “wrong, unless…”.

They do this before any consequences are considered. Consequences are not strictly speaking capable of being immediately/directly intended. They are foreseeable, capable of being strategically planned, of being wanted, and indirectly brought about. Thus they are morally relevant, but only after and in the light of consideration of, the nuclear act itself. Results brought about immediately by acts cannot be
Step 4: Revisit object and end of this agent:
Canvass the two key circumstances what (intent/object) and why (motive/end) over again in the particular instance, token, or example in order to check that this agent (Who?) does not have a further intent/motive in performing the act as identified at 3 above which alters the presumptive reading at level 3. We now have a reading on the moral status of the agent in acting. This is the actual moral judgment on the actual instance/case.

In clear cases we can locate a moral notion and thereby a relevant precept of morality. For example, let us suppose that Noah’s diabetic uncle Harry is wealthy and ailing, but has made a will in Noah’s favour leaving him all his money. Let us suppose that Noah is impatient to benefit and his mafia creditors have threatened him. While on a “compassionate” visit, he offers to assist the uncle in medicating himself. He injects his uncle with a deadly but near-undetectable poison instead of insulin and kills him in the hope that his crime will be undiscovered and he will inherit his uncle’s money sooner. When we locate the nuclear act – killing a human – at step (i) it is a bad type of action qua extinguishing the uncle’s life (ii); and further consideration of the key circumstances of intent (what?) and motive (Why?) turn this into a prima facie immoral deed, since if we ask the question: what? – the answer is that the result of the action is killing his uncle intentionally, by deliberately injecting him with cyanide, the how and by which instruments, and the answer to Why? is to get the money sooner and pay his creditors. At (iv) the question who in particular? is answered by Noah as agent and his uncle Harry as innocent patient; and the circumstances or place and time are not such as to introduce any change of moral status or species here. It is clear that this act falls under the Kovesian “recognitor” for murder, and is wrong.

However we seldom have such a clear type of case with a name for the moral notion involved and a precept to match. An inquiry using casuistry regarding “driving on the footpath” for example would suggest that it is prima facie bad, since such actions would tend to be dangerous to humans. If however the context is that an ambulance driver is using the footpath because an earthquake has destroyed the roadbed, and he is rushing an earthquake victim to hospital, then the act would be excusable. Only if there was some further personal venal intent behind the act would it be wicked (ie the end of the agent, at step 4 as opposed to the potential “end” of the act at step 3, is defective).

A famous case is considered by Plato and embellished over the centuries by Kant, Newman and others in which a drunken, jealous, and enraged husband comes to the door after one has hidden his terrified wife in the basement at her request. He asks for the return of the axe, which he lent you a week before, and whether you have seen his wife. He tells you that he will use the axe to behead her for infidelity. Do you tell the truth and return borrowed goods?

Let us run the case through the process.

Step 1&2:
Telling the truth is the proposed nuclear act (good) and not telling the truth is bad considering the end/object of intellect.

Step 3:
Telling the truth to an angry drunk who says he will use it to kill someone is assisting in a murder, and looks wrong. Saving a life by not telling the truth by concealing the intended victim looks permissible with respect to the inverse order of causal urgency and worth explained in part 1 above.

Step 4:
The casuist says: in these circumstances, provided this agent intends to save life, and has no better option, it is mournfully necessary to break the trusty “no lies” rule, because although it is (simpliciter) prima facie wrong qua denial of truth, and per se presumptively to be avoided (wrong) this wrong is defeasible with respect to (secundum) the causal necessity of preserving of his wife’s life now. There is an assumption that a causal order and an ordered hierarchy of powers exists, and that acts can be assessed in (secundum) different “orders” with respect to various criteria and for different purposes:

subsumed into an aggregated pool of results and consequence as if they are equally significant at the end of the day since only acts have essential status in a casuist analysis, while consequences are like “accidents” or contingent properties of the act. Both have outcomes but acts alone are willed directly.

18 The end of the agent as distinct from the end of the act
efficient, formal, final, and material causality; urgency; time; inherent ontological worth; intent vs execution. This truth telling here is a lesser good, and her life more important than telling him the truth now. The very high probability of extinguishing her life now irreversibly from a causal standpoint extinguishes for her and her loved one’s, including the inquiring agent, any present or possible future good that the abstractly higher (per se) good of truth, (justice, or rights) might bring. The value of truth on the other hand is not irreversibly overridden. The husband might be told the truth later, and why he was denied it at the time. This permission accepts the inherent evil tendencies, and the presumptive wrongness of lies. But this case is not like the paradigms of lying like lies for concealment of wrongdoing, advancing selfish interests or incriminating others. The notion of a hierarchy of causes and goods in different orders of consideration outlined above permits one to outweigh this still inherent evil, and the lesser evil principle prevails.

The hierarchy of human powers, inclinations, and needs can be spelled out. It is roughly one of vegetative/autonomic; animate/perceptual/mobile; and cognitive/voluntary; resulting in needs which are broadly physical (survival), social (self-perpetuation/affiliation) and personal (achievement) in that order. The extinguishing of life, a lower physical good in finality terms, is nonetheless supremely bad in respect to causally overriding at the material level her power as an efficient and final cause. Her death would cause the irreversible extinction for her any possible good that truth or rights might bring. But given the superior finality of intellect and truth, he should be told the truth later and why he was denied it at the time. This permission allows that telling lies is always bad, and gives no purchase to a generalised standing permission to lie, or even necessarily to create a general exception to truth telling in the case of all ‘perceived intending murderers’. As in the lifeboat admission case, 6 c, it is too cumbersome to construct a maxim and too hard to generalise on the basis of such “abstract subjective” perceptions. Indeed, such a category is an almost contradictory notion, at once particular/subjective and general/objective. Nonetheless, there is within such an approach the capacity to acknowledge that particular circumstances do excuse, extenuate and even justify the breaking in extra ordinary circumstances of moral rules designed for the type of act/circumstance. In the standard cases one will require to make one’s own judgment of conscience about the type of act/circumstance and the token or instance. As a unique token it cannot be the subject of a universal rule, and this under pain of an infinite regress. There cannot be such a rule about how to apply the rule. We are speaking of moral judgment, conscience, intuitive moral cognition or some equivalent.

The step of determination at Step 3 above is further illustrated below for several cases of act/circumstance type. It is no accident that there are negative prohibitions covering all the moral notions in the left column. The method generates moral universals which are not derived from procedures like applying the greatest happiness principle or the categorical imperative, but can generate near-exceptionless precepts, which are defeasible only by adding further (usually extraordinary) circumstances, appealing to some socially sanctioned professional exemption.
### How Circumstances Determine Moral Status

<table>
<thead>
<tr>
<th>Moral Notion designating Questionable and Morally Wrong Type of Act/Passion in a kind of Circumstance</th>
<th>Additional Circumstance</th>
<th>“Nuclear” Act or feeling with Presumptive Value Quality (prima facie good, bad or indifferent (neutral)) relative to well-being</th>
<th>Additional Circumstance</th>
<th>Moral Notion for Permissible or Commendable Act/Circumstance Types</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mutilation</td>
<td>Of a healthy limb to induce pain by torturer</td>
<td>Dismemberment (bad)</td>
<td>Of a diseased limb to save a life by a doctor</td>
<td>Amputation</td>
</tr>
<tr>
<td>Bribery</td>
<td>To obtain an unfair advantage re a public service</td>
<td>Giving money (good)</td>
<td>To a charity/as a gift/tip/or tax</td>
<td>Charitable donation/gift/tip/tax payment</td>
</tr>
<tr>
<td>Adultery</td>
<td>With someone else’s spouse</td>
<td>Sexual intercourse (good)</td>
<td>With one’s spouse</td>
<td>Marital love</td>
</tr>
<tr>
<td>Theft</td>
<td>Without permission of the owner</td>
<td>Removing property (bad)</td>
<td>With consent as a favour to the owner</td>
<td>Kindly helping to move house for a friend</td>
</tr>
<tr>
<td>Cheating</td>
<td>To convey one’s opponent has an ace seen in a mirror</td>
<td>Signalling to another card player (neutral)</td>
<td>To make a bid eg in bridge</td>
<td>Fair play</td>
</tr>
<tr>
<td>Murder</td>
<td>Who has done no wrong deliberately</td>
<td>Killing a person (bad)</td>
<td>To repel an armed attacker</td>
<td>Self-defence</td>
</tr>
<tr>
<td>Perjury or defamation (slander or libel)</td>
<td>Known to be false or damaging to their repute from spite</td>
<td>Saying or writing something about someone’s action (good or neutral)</td>
<td>To guide or assist her career development or recognise her contribution</td>
<td>Honouring or constructive correction of a colleague</td>
</tr>
<tr>
<td>Spite</td>
<td>With evil to settle a grudge</td>
<td>Paying people back (good)</td>
<td>Returning a good in kind</td>
<td>Gratitude/Reciprocity</td>
</tr>
<tr>
<td>Envy</td>
<td>To be possessed without effort or consent</td>
<td>Desire for another’s superior good(s) (neutral)</td>
<td>To be acquired by oneself by personal effort</td>
<td>Noble ambition or sincere admiration</td>
</tr>
<tr>
<td>Destructive fury</td>
<td>Vented on innocent others</td>
<td>Anger (neutral)</td>
<td>Expressed verbally to violators of rights</td>
<td>Righteous indignation</td>
</tr>
<tr>
<td>Pride</td>
<td>In an excessively self-important way when one has not met a standard</td>
<td>Feeling good about one’s accomplishments (good)</td>
<td>Which have actually helped others or achieved a good</td>
<td>Self-respect/self confidence</td>
</tr>
<tr>
<td>Lust</td>
<td>Of an excessive kind, directed at unwilling persons in an uncontrolled way</td>
<td>Sexual desire (good)</td>
<td>Directed at one’s spouse or partner</td>
<td>Spousal love</td>
</tr>
<tr>
<td>Hatred of a good person</td>
<td>Extreme detestation expressed in hurtful action</td>
<td>Feeling dislike for something/someone (neutral)</td>
<td>That is evil or wicked or painful</td>
<td>Hatred of evil/injustice/righteous indignation</td>
</tr>
</tbody>
</table>

Step 1 above in the process is captured in the central column, and by moving through the steps, the act/feeling. Feeling types too will fall to the right or to the left as indicated by the arrows.

Consider “dismemberment” in the central column of the first row of the figure. At step one we pick out an act type. At step 2 it is clearly prima facie bad. One flourishes the poorer without any limb. At step 3, if the limb, eg a leg has gangrene and only a surgical operation by a competent surgeon under proper medical conditions will save the life of the patient, then the act is permissible at step 3; and if that is
here and now the actual object/end of the particular actions at step 4, then the act is morally acceptable and even commendable. Its “principle” is to save life by dismembering a diseased limb as safely and skillfully as possible given there are no alternatives- amputation. If we move to left in the same row and specify at step 3 the circumstance that the leg is not diseased; the intent is to inflict pain on a victim by some criminals simply to induce disclosure to the criminals by the victim of where he has hidden his valuables, then the act is one of mutilation and wrong.

Likewise, if we look at “giving money,” it begins as prima facie good or indifferent qua apparently willing the empowerment of another to effect their purposes. If at step 3 we move to the left, it becomes clear that the principle is “money is given to an official to attain preferred access to a service that should be free or to obtain some public preferment or advantage” so we have a bribe and that is prima facie wrong. But cases can be constructed in wartime where one might excuse paying off an official to escape from jail or from the train to the death camp, which would be excusable. And if we move to the right of row 2, a donation to charity will presumptively be good, unless there is a long term venal intent, eg being seen to be generous in the eyes of one whom one hopes to seduce or a covert indirect bribe.

In the other cases in the figure, as the arrows indicate, one can see that circumstances determine the moral species of all the acts listed in the central column according as one moves right or left from the central column which can often establish the initial onus of excuse. The reader is invited to examine the table further in the light of the suggested four-step analysis, which is compressed very severely in the table itself.

It is no accident that there are near universally negative prohibitions covering all the moral notions in the left column of the figure. Column 1 represents steps 1&2; the flanking columns, step#3. In clear cases we can locate a moral notion and thereby a relevant precept of morality. In the background here are the general principles mentioned above, such as the so-called “first principle” of practical reasoning: “Do seek good and avoid evil to the greatest degree practicable” and three general principles of morality: (i) the reciprocity principles -the principle of benevolence- be kind to others/the golden rule, “do as you would be done by” ; (ii) “act justly” ; and (iii) “do no harm”. (Aquinas sees them as expressions of synderesis whose act is conscience at Summa Theologiae Q. Ia-79; Ia-Iae 100). They themselves are not axioms or theorems of the system, or supreme tests that operate quite like the greatest happiness principle or the categorical imperative. Each in the end is traced to its capacity to further a kind of need: personal, social and physical.

Moral rules cover a large “band” of possible actions of moral relevance, but there are some act types that are not subject to rule. In any case, one still has to apply the rule by reference to one’s individual’s conscience without resort to further rule ie by means of intuitive moral and practical judgement. One way of explicating the power and limits of rules is to see them as necessary but not sufficient conditions of teaching virtue, and themselves products of this method of “object, end and circumstance”.

When wedded to a philosophical anthropology with place for a hierarchy of goods and some general imperatives, casuistry not only throws light on the genesis of the moral rules by generalisations over cases, but can also explicate why and how we assign imperatives and expressions of desire varying “moral modalities” - from condemned, through permitted to required, recommended, or ideal - to any proposed type of action or feeling in a type of circumstance, not just the required or prohibited so often picked out by rules. Ethical rules are of use at several but not all levels of moral modality. Many other kinds of act or feeling can be the object of counsel, encouragement, admonition, or idealisation in story or proverbial sayings.

Moral reasoning from the centre to left or right in the figure 1 is “defeasible”, not apodictic; dialectical, not deductive; determinative of greater specification, not formally demonstrable as assertoric reasoning can be. Practical reasoning (of which moral reasoning is a species) proceeds on the basis that the connection of the truth to the good is systematic even if defeasible. If one wishes to travel to Brisbane, and a travel plan P will assure this outcome unless a range of unknown, undesired or uncontrollable factors intervene, or one changes or adds to one’s desires, that travel plan is (absolutely) practically rational and, relative to those conditions, absolutely satisfactory. If one’s wish will be satisfied if this satisfactory plan is carried out then the plan is satisfactory relative to those wishes. (On this see A. Kenny Will, Freedom & Power, Oxford (1975) and J. Searle Intentionality, Cambridge University
Thus, given this “inversion” in moral urgency of the order of inherent choiceworthiness by higher self/mind as its causal necessary condition for the same reason, and despite their being less self empower socially in a just and peaceful state take precedence in this sense over the life of the codes usually forbid lethal violence more strictly even than lies. Also, social justice and opportunity to of respect for physical integrity of the person are most urgent and the strictest of all. Moral and legal attention. In the order of material causality, they are indispensable to all life and so the moral demands than those of higher powers, such as intellect and will, their need satisfiers do require more constant physical needs are inherently less distinctive of humans and their fulfilment in a sense less worthwhile than anything else whatever, may not always be good, or best pursued relentlessly. Although Paradoxically, relentless pursuit of what is best is not always good. What is best or better when it is voluntarily “thrown”, to use Heidegger’s evocative metaphor.

Specific precepts of morality are suspended, as it were, from the good objects and ends of human powers – their perfective objects. For example, taking “truthfulness” as a virtue, the rule against lying is suspended from the fact that the perfecting object/end of assertoric (theoretic/speculative) intellect is truth. The “No (physical) harm” principle protects the physical body /autonomic systems; the “Avoid offence” principle protects certain of the emotions; the reciprocity and justice principles, the socially ordered capacity to freely co-operate for a common good. Bok (1995), Brown (1991) and others have drawn attention to the considerable cross-cultural human unanimity with regard to such principles, and institutions for resolving conflicts without violence where reciprocity and no harm principles are insufficient. Virtue-ethics tries to identify and articulate the “higher”, more indeterminate ideals and goods composing “the good or happy life” (denoted by the terms for the marks of wellbeing) as far as possible. It takes for granted that we want the best life possible and tries to figure out its content from the marks or criteria of such a life, and express them in cultural stories, icons and myths.

Persons, states and organisations are in different senses ethical subjects/agents, or quasi-persons, to whom ethical attributes can be ascribed. Self-accounting, organisational accounting, and social accounting or audit of goal achievement, are the practical analogues of verification in the theoretic sphere. Leadership groups play the role of intellect and will in the corporate analogue. In neo-Aristotelian virtue ethics, practical reasoning moves from abstract goals satisfactory to happiness (H) to their satisfaction in a process of informal imperative logic in which one moves to identify and bring about outcomes by means satisfactory relative to the goal concerned. Ideally, roughly corresponding to an architect’s “blueprint” in building a house, there would be at least a vague picture of one’s ideally worthwhile life. Because this reasoning is informal, indeterminate and non-deductive, this picture would draw on a background of ethical culture, multicultural stories and myths, comparative literature, and aesthetic sources as well as truths about the facts of the social circumstances into which one is non-voluntarily “thrown”, to use Heidegger’s evocative metaphor.

Paradoxically, relentless pursuit of what is best is not always good. What is best or better when it is good than anything else whatever, may not always be good, or best pursued relentlessly. Although physical needs are inherently less distinctive of humans and their fulfilment in a sense less worthwhile than those of higher powers, such as intellect and will, their need satisfiers do require more constant attention. In the order of material causality, they are indispensable to all life and so the moral demands of respect for physical integrity of the person are most urgent and the strictest of all. Moral and legal codes usually forbid lethal violence more strictly even than lies. Also, social justice and opportunity to self empower socially in a just and peaceful state take precedence in this sense over the life of the higher self/mind as its causal necessary condition for the same reason, and despite their being less distinctive. Thus, given this “inversion” in moral urgency of the order of inherent choiceworthiness by
that of material causal dependency, two features of this ethics are particularly notable: (i) the master need for empowerment through intellectual and moral virtues entails an urgent ethico-practical need for equal opportunity and supportive institutions of justice; and (ii) there is a need for a healthy physical environment with respect to air, water, etc. and security from violence, require strict anti-violence provisions and natural environmental controls.

Conclusion

If we think of levels (1) -(7) of Section One as a ladder running from very general and abstract ends/principles to the specific and thence to the particular, then we can think of each of the levels as grounding a proverbial truth as follows:

1. All/most humans ultimately want to be well, other things being equal.
2. Given a plausible analysis of wellbeing using widely shared marks or clues, they should want the same ends, and approve the same general norms re. harm avoidance; rational, reciprocal behaviour; and fair opportunity for pursuit of good in a number of categories.
3. Physical life is the indispensable requirement for well being, and social and personal goods are life's ultimate goods; and social life calls for such goods as justice, truth and friendship.
4. There are some universal life preserving/enhancing precepts e.g. against murder and for truthfulness and fairness.
5. But these are not moral absolutes: ethical norms vary in application with beliefs about the ontology of the person, culture, and other circumstances.
6. In clear cases where two conflicting rules are relevant , breaches of one can be sometimes be excused ad hoc
7. In the end , rules run out or collide, requiring particular choice; and in any case even clear choices are still of particular tokens, and in that sense unique

There is a set of levels of cognitive abstraction and normative ideality from very general, uncontextualised vague prima facie or presumptive judgements of good /bad ends/objects of acts and feelings, reflected in 2and 3 above and in casuistry step 1 above. These are reflected in presumptively binding general imperatives at levels 1-4 of Section One. Also in the kinds of maxim or precept which one can develop using casuistry at step 3 ( defeasible, but strong moral claims). At the next level we encounter an as yet non-consensual zone exemplified by the cases cited in levels 5-6 of Section One. At level (7 ) we reach the unique intent/motive of this agent/ here/ now we saw at step #4 of casuistry. The last can be rule guided only up to the point where rules exist and can in some sense only be idiosyncratic. Perhaps this underpins the oft heard adage: " In the end, everybody has different ethics". Hopefully this paper has shown that such proverbial sayings as: " when it comes to ethics, we all ( or cultures) disagree“ ( cf. 5 above) or " silence or disagreement of rules shows ethics is irrational subjectivity”(cf. level 7) are only half truths based on conflating levels of specification . Points 1-7 above are true at their appropriate level, but not scandalous. The hard work in zone 5-6 can only be done using the process of determination, fertilised by the best account of the nature of persons and the best possible good uses of our human capacities to keep working on a possible future consensus.

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