University of Kentucky

October, 2008

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Draft October 20, 2008

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I.

Moral theories differ in the extent to which they demand of the individual submission to
its requirements. Some versions of Kantianism and utilitarianism brook no deviation from
its criteria for right action. Without exception the moral agent is obliged to conform to the
demands of the ethical theory, whatever the personal costs. A rule not to lie means that,
when asked, the moral agent must tell the ax-wielding hatchet murder about the intended
victim hiding under the stairs.

Other, less stringent formulations allow the person to indulge a "partiality" with regard to
certain projects, commitments, and relationships. The rationale for the latter relies not
upon simple assertions that these private concerns are in some way more important than
morality, but rather that to abandon them, or to behave in ways that belie that nature of
those commitments, undermine the meaningfulness and relevance of the expectation that
the person behave morally at all. As Bernard Williams has argued, "it is quite
unreasonable for a man to give up, in the name of the impartial good ordering of the
world of moral agents, something which is a condition of his having any interest in being
around in that world at all."[1]

The intuition that the lack of partiality detracts from the moral value of many ordinary
behaviors has been illustrated by some common scenarios:

- "The standard example involves asking whether a hospital patient would prefer a
  visit by friends who are motivated by sympathy, or by persons who are acting
  simply from duty."[2]

- Peter Railton describes John, a "model husband" who explains his attentiveness to
  his wife with a consequentialist account: "I've always thought that people should
  help each other when they're in a specially good position to do so. I know Anne
  better than anyone else does, so I know better what she wants and needs. Besides,
  I have such affection for her that it's no great burden—instead, I get a lot of
  satisfaction out of it. Just think how awful marriage would be, or life itself, if
  people didn't take special care of the ones they love."[3] Railton unfavorably
  juxtaposes John's rationale with that of Juan, an equally doting husband, but one
  who explains himself by saying that "I love Linda. I even *like* her. So it means a
  lot to me to do things for her. After all we've been through, it's almost a part of
  me to do it."[4]

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[1] Bernard Williams, *Persons, Character and Morality*, MORAL LUCK (Cambridge University Press, 1981),
pp. 1, 14.
[2] Walter E. Schaller, *Should Kantians Care about Moral Worth?*, DIALOGUE 32(1993):25, 27.
[3] Peter Railton, *Alienation, Consequentialism, and the Demands of Morality*, PHILOSOPHY & PUBLIC
AFFAIRS 13(1984): 134, 135.
[4] *Id*. at 150.

- A final repeated example involves "the favorite case of a shipwreck where a number of people are drowning and in which a man can save the life of either but not both of two people, one of whom happens to be his wife."[5] The challenge of the story is to decide whether and on what grounds the man can preferentially save his wife over the other drowning victim.

All three cases are intended to underscore the two pronged dilemma of what we can morally do (e.g., can I save my wife?), and whether, even if a specific act can be done, doing it for the wrong reasons might not be as damning as failing to do it at all. Such wrong reasons might include the goal to fulfill a duty or to maximize utility, rather than from an emotional preference. Thus, while in terms of actions John and Juan are indistinguishable, yet Railton is convinced that whereas John's wife "is justified in being hurt by the way she is being taken into account," we do not expect that Juan's wife "would be saddened to hear Juan's words the way that [John's wife] might have been saddened to overhear the remarks of John."[6]

These examples reveal intuitions intended to spotlight shortcomings of rigid theories with draconian demands, which make acting morally come at the price of the agent's humanity. If we go visit the sick friend in the hospital, or help a wife in need out of "duty" or so as to maximize utility, rather than out of affection and emotional ties to the recipient, than on some level this seems not only a failure to capture how people really behave—what motivates them—but even as an idealized account fails to properly balance the different components of our human nature. Writers using such examples expect the reader to agree that results such as the dutiful rather than sympathetic hospital visit are "wrong." Depending upon the theoretical allegiance of the writer, this result is used either as evidence to reject such demanding theories, or as an occasion to amend them in ways that will appear to allow the "correct" result in each of the cases—visiting out of friendship rather than duty; doting on a spouse out of love rather than from an expectation that such behaviors maximize utility; or unfailingly saving one's own spouse at the cost of other persons needing equal rescue.

Whatever their vantage point, philosophers uniformly fail to challenge the assumption that such cases present any meaningful dilemma for their moral theories. To see whether such a challenge can be asserted, however, we must look again at the way the cases have been structured.

For purposes of this discussion, our attention will focus primarily upon the first case of the hospital visit. As described, a patient—one presumably in need of emotional comforting—is understandably depicted as deriving more benefit of the needed kind from persons who visit from a motivation of sympathy (or some similar emotional basis) than from simple duty. A dutiful visitor would be unable to offer the kind of emotional nurturing that a sick person would find helpful while hospitalized. Therefore, we are led

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[5] Robert B. Louden, MORALITY AND MORAL THEORY: A REAPPRAISAL AND REAFFIRMATION (Oxford University Press, 1992), p. 67.
[6] Railton, p. 136, 151.

to conclude that mere duty is insufficient motivation for many kinds of acts, in that by their very nature they make the desired good of that moment unattainable.

While that paraphrase efficiently captures the problem writers like Schaller wish to convey, it leaves out one very important term which he had included: "friend." The hospitalized patient is not evaluating the motivations for visits from a parade of strangers; rather, the patient is judging the motivations of friends, those with whom he or she had a prior relationship based upon elements such as mutual emotional compatibility and a prior history of reciprocal exchange of favors and thoughtful considerations. That the problem can be effectively outlined *without* including this term shows that analysis of the problem has not thoughtfully considered all of the factors presented. If the characterization of the visitor as a "friend" is not required to outline the problem, what work is the addition of this element doing in the story?

Similarly contrasting accounts can be constructed as well for the other two examples. Again, while the problem can be described in generic terms, the account adds additional information that is not fully unpacked during the analysis, in this case that the agent has the status of "husband." It was for this reason, incidentally, that the cases were laid out above using extensive quotations rather than simple paraphrase. It is necessary for this critique that the key terms upon which I claim that analysis should turn have been introduced by the philosophers themselves, and not read into the problem after the fact.

Should these terms contain morally significant dimensions, then two results follow. First, no implications or resolutions of the dilemma presented can be considered complete without including a discussion of the implications of the ethical impact of the introduction of such terms; and second, the possibility must be allowed that any such discussion will dissolve the apparent problem. In other words, when the cases have been fully considered in the terms in which they have been framed, no substantial difficulty may remain, at least of the sort intended.

An initial clarification for our discussion concerns the relevance about what the nonagent (i.e., the patient in the first case, or the wives in the other two) might prefer. Perhaps we can grant that the patient might prefer visits from persons who will dote and fawn and otherwise appeal to his or her emotional desires. We may even agree with the patient that these are reasonable and correct expectations. However, the purpose of the case should be to make that demand morally obligatory or at least reasonable, rather than to simply mirror our naïve assumptions about such events. The fact that we would ourselves prefer sympathetic hospital visits does not force the conclusion that nonsympathetic hospital visits are a moral shortcoming. It is the latter conclusion that the authors intend us to carry forward, rather than the former introspective insight about our own feelings. Accordingly, we may conclude that cases irrelevantly introduce the preferences of the nonagent in ways clearly intended to irrationally influence our assessment of the situations. Unless you begin with a theory that assumes such input to be relevant to moral determinations, there can be no basis to arrive at that result based upon the thin accounts of these case examples. Our sole attention, therefore, must be upon the actor (who may,

for his part, consider the preferences of the recipient, even though we, as omniscient observers of the interaction, cannot).

The puzzling added descriptive elements attached to each of the agents are social labels. These refer to roles that are socially constructed and recognized, and have more than private criteria for them to be judged as valid. However much one refers to another person as one's spouse, for example, that is a mere analogy from which nothing necessarily follows unless explicit criteria have been met that would make the claim a literal truth. So too with friendship: For the label to be correctly applied, certain consequences must follow from the application, otherwise the claim will be deemed false, that the other person is not "really" my friend but perhaps only an acquaintance.

While there have been several characterizations of friendship, a minimal account would include Laurence Thomas's "three salient features":

1. Companion friendships are a manifestation of a choice on the part of the parties involved;
2. Neither party to the relationship is under the authority of the other; and
3. There is an enormous bond of mutual trust between such friends, one that is cemented by equal self-disclosure.[7]

By this account friendships are relationships that we enter into volitionally and which are based upon considerable degrees of mutual trust. To Thomas's criteria we can perhaps fold in the following Aristotelian-based description from Nancy Sherman:

> In choosing a friend, one chooses to make that person a part of one's life and to arrange one's life with that person's flourishing (as well as one's own) in mind. One takes on, if you like, the project of a shared conception of *eudemonia*. Through mutual decision about practical matters, friends continue to affirm that commitment.[8]

One can imagine denials that Kantians or utilitarians can form friendships of this sort. In both cases, the argument runs, their prior ethical commitments prevent the formation of emotional ties which are forever at risk of being trumped. Such persons, therefore, can never be a true friend or spouse. Such objections need not be fatal: all that Sherman appears to require is that one friend "arrange [his] life with" the well-being of the other "in mind;" she does not stipulate that that well-being must be a supreme value.

In any event, whether or not these amount to a sustainable assertion need not delay us here. The accounts at issue have already conceded in their own terms that the hospital visitor is a friend. Our task is not to challenge the facts as they have been given us, but only to unpack the ethical implications of those facts. To do otherwise is to address a

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[7] Laurence Thomas, *Friendship and Other Loves*, in FRIENDSHIP: A PHILOSOPHICAL READER (Neera Kapur Badhwar, ed., Cornell University Press, 1993), pp. 48, 49.
[8] Nancy Sherman, *Aristotle on the Shared Life*, FRIENDSHIP: A PHILOSOPHICAL READER (Neera Kapur Badhwar, ed., Cornell University Press, 1993), pp. 91, 98.

different problem entirely from the one framed by the writers, an undertaking that would indicate success in the immediate task to show that the classic dilemmas intended to show the counterintuitivity of partiality may not be sustainable when all the terms of the case are accounted for in the analysis. To grant the problems their intended seriousness, we must therefore take the facts on their face as they have been presented. The visitor *is* a friend; the rescuer *is* a husband; rather than undermine those descriptions, we must ask what follows from them.

The dilemma of the hospital visitation arises out of assumption that the friend is making a choice to visit out of either duty or sympathy. The structural underpinnings of "friendship" outlined above, however, suggest that any critical decisions relevant to the example were made long before the patient entered the hospital. For whatever reasons, be they Kantian, utilitarian, or virtuous, A has entered into a true friendship with B. In order for the relationship to qualify conventionally as such a friendship, certain behaviors and reactions will be expected, otherwise it could not properly be called a "friendship" as the social label is meaningfully employed.[9] Since the example does not stipulate that it is the friendship itself which is in question, but only the motivation for the visit, we must assume that the visit was made by a friend, to a friend, out of friendship, otherwise we are denying to the terms of the case their ordinary meanings. Consequently, such a visit on its own terms would be expected to be out of sympathy (if that is what is meant to visit one out of friendship). Any *choosing* that was done, and which is supposed to create the fulcrum of the dilemma, occurred not at the moment of the visit but long before, when the friendship was created. All we are witnessing here is the outcome of that earlier choice.

The point is that words have conventional meanings, and words referring to social relationships carry with them role expectations which dictate the proper use of those labels. The cases play upon this fact without seriously considering the wider implications for the point to be made. The patient expects a sympathetic visit not from strangers, but from friends, and so long as the status of "friend" is not being questioned that is exactly what she will get because that is embedded in the use of the term "friend." Likewise for husbands. John may have entered into the marriage out of a consequentialist assessment that such arrangements maximize utility, but, having made that choice and assumed the mantle of a "husband," his freedom to deviate from role expectations is limited by that prior decision. His consequentialist commitments may perhaps lead him to conclude that being a husband is not the best way for him to maximize utility, but that is not the case with which we have been presented. John qua husband will do the kinds of things he does for his wife, not because he is a consequentialist, but because he is a husband. Again, the critical moment of choice preceded the individual actions described in the case.

Finally, we can look briefly at the final scenario, whether we can save our wife preferentially, or whether or philosophical commitments require some kind of abstract

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[9] Implicit here is a later Wittgensteinian understanding of the social construction of meaning via use. Meaning, he argued (in contrast to his earlier *Tractatus Logico-Philosophicus*), was to be found not in an underlying logical framework, but in how the term is used by ordinary language speakers: "What is supposed to shew what they signify, if not the kind of use they have?" Ludwig Wittgenstein, PHILOSOPHICAL INVESTIGATIONS (Blackwell, 1963), ¶ 10.

assessment of the sort that so irritates Williams. As persons, each of the survivors has an equal claim to my rescue. However I have made a prior commitment to the person who is also my wife, which will always tip the scale in her favor. This result will hold unless I also have additional commitments to the other drowning person, such that I was captain of the ship that sank, and thus I have responsibility for placing him in this situation in the first place. In this case spouses, by virtue of the conventional understanding of that relationship, share debts as well as benefits, and thus the wife must pay part of the cost of my fulfilling my other relevant obligations. If I am the captain, the wife does not get saved. Even this contrary result, however, follows from the social structuring of the roles invoked by the example.

These arguments do not necessarily deny the problem of partiality, but only that the examples commonly invoked to illustrate the dilemma do nothing of the kind. Either new examples must be constructed—ones that either avoid invocation of social roles with their embedded ethical implications, or those implications must be openly considered in evaluations of the presented scenario—or, more radically, the problem of partiality may need to be reassessed to rule out the possibility that many such conundrums are only the surface structure of deeper arrangements that unproblematically comport with traditional moral viewpoints. Being a Kantian or a utilitarian does not grant authority to unravel the meaning of language; if such persons are described as friends, then that is what they must be assumed to be, and it is the moral reasoning that must yield, not conventional semantics.

II.

If the foregoing offers a valid critique of the common technique of argumentation in discussions of moral partiality, the ramifications extend far beyond that specific context. In at least two different ways, the claim that social roles have been inadequately considered in moral discussions supports challenges to the accepted strategies of discourse concerning ethics.

The first concern follows from the link between the social construction of meaning, and the use of those meanings to describe and evaluate moral claims. The failure to assign social roles their true significance in routine moral reasoning obscures the fact that morality itself is to an important extent a creation of the same convention and social construction used to construct the meanings used to talk about ethics in the first place.

The presumed "correct" reaction to each of the partiality cases (that the patient will prefer a visit out of sympathy rather than duty, that the husband should dote on his wife out of mere emotional preference rather than from a conviction that such actions create a better world on the whole) is therefore less "natural" than conventional, since those cases necessarily draw upon cultural construction of what it means to be a friend or a husband. In any context where the analogous relationships are constructed differently, the proper answer would differ and therefore so too would the moral implications.

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For example, in contexts where spouses are arranged rather than love matches, the expectation that the appropriate motivation to tend to the wife's needs is that you "love, even like her" would be considered superfluous, even dangerously self-indulgent. That response would be viewed as the problematic one because romantic love is deemed an unstable basis upon which to build such an important relationship as the marriage. John's utilitarianism, in fact, would arguably be judged the "correct" attitude toward one's partner, since it indicates a suitably stable foundation for the long-term project of family creation.[10]

While a reader of the relevant texts would gain an impression that the topic being discussed is morality simpliciter, in reality, almost without exception, all that is being systematized are the moral assumptions of a specific cultural environment. Without explicit work to effect a decontextualization, conclusions will not transfer to all moral agents. Very few philosophers attempt such universalization of their arguments because they fail to recognize the local terms in which they have been constructed.

The second ramification of recognizing the moral significance of social roles has to do with the limitations of our intuitions about ordinary cases more generally. In the examples discussed, our intuitions reached the wrong result. The error arose out of the misleading use of social terms to "prime" the example, but without full consideration of the meanings of those terms for ethical analysis. The term "friend" was invoked, for example, to heighten our expectations about the behaviors of the hospital visitors, but this term was not further examined to see if our expectations were justified. The cases thus rely upon the freighted significance of the terms to set the stage and to predispose our intuitive responses, while refraining from following through with the implications of those same terms. This is not argument, but rhetoric.

More problematic, however, for any systematic reliance upon our intuitions to guide our moral reasoning is not that the intuitions are baseless, but rather that they are squarely based on precisely the source of understanding that a critical philosophy should be challenging, to wit, our conventional assumptions. What, exactly, as a matter of philosophical methodology, follows from the consensual conclusion that hospital patients expect sympathy- rather than duty-based visits? This may accurately describe the emotional behaviors of every one of our culture-mates, including ourselves, but it does not tell us whether this is a good, bad, or indifferent situation. Given the basis of our intuitions in conventional social meanings, it seems a bit of the naturalistic fallacy to employ those fact-based intuitions to tell us what should or should not be the moral case.

These two observations have obvious overlap. While the first observation relates to the identification of the relevant facts for our moral analysis (which conventional meanings are pertinent to the case), the second concerns the broader methodology of relying upon our intuitions to inform moral analyses at all. Our intuitions about situations can be mislead precisely because our recognition of relevant facts is socially constructed. Unless

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[10] Empirical analysis bears out this difference: the most stable of the world's family units are those which are arranged.

we share the same background and social experiences as the writer, we will often not share the same expectations about what is the "right" outcome in any specific scenario. And even when we do, nothing of ethical significance follows from this fact alone. Yet, if that is the case, then the power of such cases to present counterexamples requiring refutation or adaptation by a moral theory is weakened if not eliminated.

If the moral significance of social roles were to become standard practice within moral philosophy, then, that seemingly sensible posture could completely retool the way in which moral philosophy is pursued, and as a result, conceivably rework the products of that project.