The common morality in communitarian thought: reflective consensus in public policy

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Abstract   I explore the possible meanings that the notion of the common morality can have in a contemporary communitarian approach to ethics and public policy. The common morality can be defined as the conditions for shared pursuit of the good or as the values, deliberations, traditions, and common construction of the narrative of a people. The former sense sees the common morality as the universal and invariant structures of morality while the second sense is much more contingent in nature. Nevertheless, the communitarian sees both aspects as integral in devising solutions to public policy problems. I outline how both meanings follow from communitarian philosophical anthropology and illustrate how they work together when addressing a question such as that of providing universal health insurance in the United States. The common morality forms the basis of building an implicit consensus that is available to and reaffirmed by the shared reflections of the citizenry.

Keywords   Common good · Common morality · Communitarian · Communitarian ethics · Consensus · Narrative ethics · Universal health insurance

A communitarian ethic or a communitarian approach to public policy, by definition, posits notions related to common morality as important to living well. Communitarianism is about the fundamental importance or ontological priority of the community in regard to human flourishing. Some kind of common morality, i.e., some way of living together, must be a precondition for or partially constitutive of that flourishing.

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The term "common morality" is somewhat foreign to communitarians. Nevertheless, similar and related terms abound. Communitarians often speak of the common dimension of morality in terms of a "shared common understanding," "shared hierarchy of goods," or "shared vision of the good life" [1]. But any of these terms suggest that ethics is in large part an enterprise based on shared values or a project that seeks a shared meaning or both. This assertion of the priority of the communal presupposes a certain philosophical anthropology. Understanding this anthropology is essential if we wish to understand in what sense or senses communitarians embrace the concept of common morality.

It is my contention that a communitarian approach to ethics embraces common morality in two ways. First, the communitarian sees the creation of the conditions for shared pursuit of the good as a universal aspect of morality. This is a view of the common morality as a universal and invariant morality. Second, the communitarian values the deliberations, traditions, and common construction of the narrative of a people. This sense of common morality is much more contingent in nature. However, the communitarian is not very concerned to determine exactly where the first sense leaves off and the second sense takes over in practice. Deliberation, virtue, shared common understanding, and similar activities are the good or goods that give life meaning. When those processes are instances of invariant structures and when they are yielding prudential products would seem to be of secondary concern at best.

I will outline the communitarian anthropology or view of the person in order to show the place that notions of the common morality play within this philosophy. The two notions of the common morality, i.e., as an invariant and universal morality and as contingent traditions and narrative will be highlighted. I will illustrate how these two notions interact in a typical policy problem such as the current debate regarding universal insurance in the United States. We will see that the communitarian holds that stable public policy relies on a model of consensus that builds upon the common morality and is available for public reflection. The challenge for the contemporary communitarian is to come to understand the locus and means of reflection and to support and foster such structures.

The communitarian anthropology

The communitarian philosophical anthropology can be characterized as a view of the person that replaces the philosophical construct of the individual with a cognitive conception of the person, one that sees the good as the object of deliberation [2]. This contrasts with the kind of Western political philosophy that is often called liberal individualism. This approach, which has dominated discourse since the Enlightenment, presupposes that the individual is the original and primary unit of social organization. The individual surrenders some of his or her unlimited freedom in exchange for the safety and advantages that being a member of society affords. This is the story told by social contract theorists from Locke through Rawls [3].

On the liberal view, the individual's sphere of autonomy is safeguarded by a set of rights that prevent others from infringing on his or her guaranteed liberties. These

liberties enable the individual to pursue his particular vision of the good life. This pursuit of happiness is generally considered to be a subjective matter and beyond the judgment of others. Rights guarantee that all may pursue their individual conceptions but the content of such conceptions is a private matter. This volitional view of the person is in sharp contrast to the communitarian's cognitivist view of the person which understands the good as something that is discovered or apprehended in communal dialogue.

The communitarian philosopher follows the liberal theorist in seeing human life as importantly characterized by projects that contribute to the person's vision of the good or the good life. Similarly, the communitarian sees the community as responsible for helping to provide the conditions that enable its members to pursue projects [4]. However, human flourishing is not merely about pursuing projects per se.

The pursuit of the good life is the telos or end through which one "discovers" and refines the content of that life [5]. Not all choices a person makes are equally good. One learns about the value of those choices in dialogue with others. Our processes of choosing are influenced by those around us and the traditions and values within which we live. What presents itself as a viable option is at least in part a product of the many intersecting communities in which we are immersed. Through these processes we as particular persons and as communities come to appropriate, refine, and redefine our traditions and their values. At our best, we deliberate together about things that affect us individually as well as those that affect us collectively. We are not the content-free selves of liberal democracy nor is our nature pre-given in a way that we can simply read off the content of the good life from self-reflection or reflection on nature. We are continually engaged in processes of mutual self-discovery in and through our encounters with each other [6].

Communitarian thought follows the Aristotelian tradition in many ways. In particular, Aristotelian thought is optimistic that we can come to know moral truth from reflecting on experience. Aristotelians will sometimes make normative claims based on descriptive observations. From the communitarian anthropology of the person, we know what kind of things human beings should do. That is, we can sometimes derive an "ought" from an "is." Once this distinction between fact and value is relaxed, ethical deliberation becomes an open-ended process. Deliberation among the members of the community may discover particular moral values and moral truths. As a result, the communitarian values the experiences of the members of the community as moral data. Thus, the descriptive and normative realms are constantly intermingled.

What is the common morality?

If we take the communitarian anthropology as our starting point, a term such as "common morality" can have two related referents. First, the common morality can refer to the necessary conditions for shared deliberation. Because human flourishing involves shared deliberation, a just society must foster these conditions. This sense of common morality is entailed from the communitarian conception of the person

and what the person needs to function as a deliberative being. As a result, the communitarian shares the regard of liberal democracy for fundamental liberties such as freedom of speech and freedom of the press. These liberties are means through which we foster our mutual self-discovery. Some communitarians, such as Alasdair MacIntyre, are very suspicious of the language of rights but most have no trouble attributing the status of a right to such conditions. After all, it would be self-defeating to ascribe contingent moral status to necessary conditions of deliberation when deliberation is the fundamental character of human life. Obviously, the exact scope and application of such rights can and should be a subject for communal deliberation.

Second, the more intriguing and controversial notion of the common morality is a content-laden one. When deliberating together we draw upon and appropriate our many traditions and cultures, test and refine common understandings, form economic and social ties of various kinds, and build shared narratives. Of course, in a large and complex society such as the United States, many understandings are often more or less shared and controversies abound as the limits of shared understandings are continually tested and refined. Nevertheless, it would be nonsense to say that we have no shared common understandings that include content relevant to a vision of the good life. Even a controversial area such as health care provides a ready stock of examples of shared understandings.

It seems to be a settled common intuition that people in emergency health situations must have access to medical care rather than die in the streets. It can be argued that the federal law codifying the right to demand treatment from a hospital emergency room when in distress is not a source of controversy because it simply reflects a shared common understanding. Similarly, public health insurance programs, e.g., Medicaid and the State Children's Health Insurance Program (SCHIP), that provide prenatal care and insure children from underserved populations are extremely politically popular. Simply put, there is widespread consensus that this care ought to be provided. Of course, there are a number of possible moral justifications to support these intuitions but the fact of the shared intuitions is difficult to deny in any credible fashion.

Of particular interest is the precise degree to which justifications of these intuitions are best seen as contingent elements of our particular societal narrative or should be thought of as moral justifications that are true of any stable modern society. Singling out some populations for public insurance coverage draws upon a common understanding of who is truly vulnerable and/or who is deserving of protection. For instance, Medicaid and SCHIP programs have been much more likely to extend some benefits to the mothers of small children than to their fathers. Nevertheless, access to emergency care through the Emergency Medical Treatment and Active Labor Act (EMTALA) extends to all regardless of gender or age [7]. Extending some kinds of care to all but limiting other kinds to specific populations draws upon a variety of contingent understandings and narratives. Nevertheless, one can argue that some elements of this moral narrative are values or justifications that are universal in nature.

One can argue that access to health care can be linked to conditions needed to pursue the good life. In other words, in some instances, health care can be necessary

to enable a person to pursue a good life in tandem with his fellow community members. Food, shelter, and freedom from devastating disease and illness are as essential to pursue deliberation as are freedoms of speech and assembly. This kind of reasoning is similar to that espoused by liberal theorists in the social contract tradition such as Norman Daniels [8]. Daniels argues that health care is a public good similar to education that is a prerequisite for equality of opportunity. Of course, arguments that focus on health care as a condition of opportunity to pursue the good life are strongest in supporting some kinds of health care such as childhood vaccines and less strong in justifying hospice care for those near death or care for persons with such severe disabilities that health care is not able to increase their ability to participate in economic or deliberative activities. Clearly, the case for provision of services in these instances is dependent on some fuller narrative of the role of medical care in our lives that draws on values such as compassion and beneficence.

The analogy of health care to education is instructive. The communitarian as well as the liberal can claim that access to education occupies a fundamental stratum of the common morality. There is an individual right, perhaps a human right, to education because of the necessity of being educated in having access to a reasonable range of opportunities in modern society. For both the liberal theorist and the communitarian, the right is entailed simply by reference to their philosophical anthropologies, i.e., their concept of a right to pursue happiness or to become a deliberative being respectively. A fundamental insight of communitarian philosophy, however, is that virtually every attempt to apply such a right will require interpretation and delineation of specific communal arrangements. To say something is such a right is a sparse beginning. Calling something a right tells one little about the specifics of exactly what must be provided, how much must be provided, or how it must be provided. All of the important matters for the lives of the people in the community will ultimately be dealt with through long and ongoing shared deliberations that take many institutional forms. Thus, even fundamental premises of the common morality become quickly embedded with the more deliberative, appropriative, and narrative levels of the common morality.

Putting the common morality to work: the problem of the uninsured

How might the communitarian's notions of the common morality help or fail to help us in dealing with a pressing social issue such as that of large numbers of people in the United States without health insurance? Does the common morality require that all persons in the United States have health insurance? The *prima facie* answer to this is yes. A minimum basic package of benefits would seem to be required by the communitarian's regard for providing the conditions of participation in the community to each member. Access to health care would seem to be normatively entailed simply by the philosophical anthropology of the communitarian. Furthermore, it is also required by the commonly held intuition that when persons are ill, they should not be left to their individual devices to cope. If a sick person presents in need of aid, he or she should have the support of the community. These kinds of

judgments are often intertwined with a wide variety of values and related judgments regarding personal financial security, fairness, and personal initiative. While a conclusion such as one that each member of society should have health insurance is entailed by deeply held values and may be a part of the social fabric of a people, social change is more complex than simply logically deriving a conclusion from a syllogism.

Creating needed systemic social change and attracting the support and loyalty of the citizenry for the changes are challenging issues. There are a number of communitarian approaches that can be taken. But, let us outline two that are prominent, a deliberative model and a consensus model. Communitarianism emphasizes the deliberative nature of the person. People come to be who they are through shared deliberations. In substantive dialogue with one's neighbors, persons engage in mutual self-discovery. In this process, they work to discover their values or to interpret how their values should guide the choices before them. Of course, participants in such processes will understand their conclusions well and feel a sense of ownership of the finished product and be unlikely to be easily swayed once their deliberations have concluded. A number of years ago, bioethicist Ezekiel Emanuel proposed a mechanism for implementing this kind of model of direct, shared deliberation [9].

Emanuel proposed creating Community Health Plans (CHPs). The CHP would be a relatively small unit of approximately 10,000 people and each person would enter the plan with a voucher for roughly the cost of a contemporary health insurance plan. The members of the plan would deliberate in the style of a New England town hall meeting. Such deliberations would largely be concerned with the allocation of the common resources of the group. The questions would concern coverage of various kinds of care. The socially divisive questions including reproductive services, cosmetic and enhancement technologies, and other services whose medical or moral benefit are in question would form much of the subject matter of shared deliberations.

It is worth noting that this kind of a plan focuses on working through controversial areas and challenges the participants to come to agreement. In the event that disagreement is so fundamental that no common ground can be defined, the participant should seek a CHP more in line with his or her views. This kind of plan has been critiqued in many venues. But, for our purposes, two points are important. First, the plan already presupposes that there is agreement on the fundamental point that all Americans should have health insurance. One receives a voucher prior to the opening of shared deliberations. For the communitarian, this can perhaps be taken as settled intuition, a kind of common morality [10]. The proposal to develop CHPs is more an effort to extend and define the limits of the common morality in the allocation of health care resources than to argue for universal access to participate in that allocation process. Second, this approach calls our attention to the fact that plans which are imposed upon communities without their participation may easily have public opinion turn against them. When a plan is not the result of the deliberations of the members, their opinion may easily be swayed by an unexpected, high-profile case that seems unjust or other salient image. This is a fundamental obstacle to rational policy making in a large society and

argues in favor of small-group deliberations. But, we may take other approaches. For instance, some communitarians try to circumvent the difficulties in creating small group deliberation by directly developing policy proposals that can gather consensus in other ways.

A more common approach to policy making in an area such as health care involves policy makers crafting solutions that generally reflect widely held values and beliefs. Many persons hold a wide variety of beliefs and values that are not necessarily systematic or easily reconciled. When particular issues arise, persons must consider the options before them and interpret how their beliefs apply. Or, a particular solution is proposed and people must consider whether the solution is one that is acceptable to them. Often, such a solution is enacted legislatively with few citizens actually knowing about the enactment. But, the durability of the solution is dependent on the solution being one with which most persons will give assent when they actually encounter it [11]. This model posits that such solutions embody an implicit consensus. This is not a consensus in fact but is one that can be activated upon need. The solution encapsulates what-one-would-think-if-one-thought-about-it [12].

The variety of values each embraces means that most persons are not ideological purists; they tend to be somewhat flexible regarding a range of available solutions. But, there are often identifiable values and considerations that many wish to see as part of any acceptable solution. In the case of health insurance, these might include easy access to a basic minimum of care, personal security, portability, and personal responsibility to contribute to the system, among others [13]. Such values may also be embedded within a context of varying degrees of trust or mistrust in government to effect an appropriate solution, varying satisfaction with the current system, and a variety of other factors. Any realistic and stable solution will have to take into account these various factors and try to balance them in arriving at a solution.

Achieving consensus in this way is often something that politicians and policy makers implicitly try to do. Balancing these factors in our current climate usually means working within the current structures to extend private health insurance to more persons or at least not directly threatening the private, employer-based health insurance that many Americans enjoy, and/or building upon popular programs such as Medicare. Nevertheless, crafting particular proposals that can balance all the interests and common intuitions is the policy-maker's art. Deciding when public sentiment has shifted sufficiently to make more creative options possible can be the genius of visionary political leaders.

For our present purposes, three points are important to note. First, the communitarian sees the common morality as an amalgam of values, beliefs, and preferences that have a "more or less" quality among people and segments of the population. Much is shared in common even though no two people may hold exactly the same values, beliefs, and preferences in exactly the same way. Second, the common morality supplies the matter for deliberation, the stuff that is appropriated and refined in deliberation but does not dictate a particular solution. Either through direct deliberation of those involved or through an effort by policy makers to craft policy that balances the various considerations, the common morality is operationalized in the life of the community. Third, the many elements that comprise the common morality consist of both very contingent notions and more fundamental

ones. A belief that one would like to hold on to their employer-based private insurance plan would seem to be a far less necessary proposition than valuing access to health care for all members of society. Similarly, basing access to health care on the value of equal opportunity to participate in society would seem more soundly entailed by our social contract than would basing it on the value of beneficence. But, the communitarian finds such distinctions to be more of theoretical than practical importance.

While we may wish to privilege some elements of morality as conditions of the possibility of deliberation, the community must incorporate these into its common narrative in order to be effective. In some instances, more contingent values such as beneficence may have a deeper hold on the common allegiance and form a more foundational role in the deliberative life of the community. Furthermore, the communitarian is more concerned to foster the communal life of deliberation than to sort out the elements of that deliberation. While we may insist that some elements are ontologically prior to others, that insistence means little unless such claims resonate with the community, i.e., within the common morality.

Challenges for the common morality: reflection and narrative in society

The challenge that contemporary society poses concerns the means of effective reflection in a large, media-driven society. The consensus model does not require that each person be a deliberator in the design of a health-care system. The consensus is a consensus of values and particular features that usually elicit assent upon reflection. Reflection is an appropriate term for this process as it is a sifting through of the arguments and arrangements and coming to validate the core principles and practices involved. Of course, contemporary society presents some obvious challenges to this model.

Critiques of public policy seldom seem to be reflective in our society. Often an issue will be reported upon in the media and create a sudden scandal. The reporting that surrounds a case, especially a case involving an appealing or sympathetic person such as a child, may appear to scuttle rational decision making. It is often thought that we cannot make allocation decisions in our health-care system because denying any treatment to anyone will result in just such a sensational story that will then undermine opportunities for making any tradeoffs in resources. The history of Medicaid reimbursement for renal dialysis seems to be one such story, but there are others [14]. Contemporary news media seem to thrive on sensational stories and thereby detract from our ability as a nation to effectively reflect on important policy choices. Nevertheless, two points are worth noting in passing.

First, reflection often draws upon lived experience more than current media coverage. When one reflects on what we want in health coverage, that reflection is clearly shaped by our encounters with the system as we have come to know it over time. We are likely to be predisposed to retain positive features that we have encountered. And, we are likely to give priority to addressing shortcomings that we have directly or indirectly experienced. These tendencies mean that a consensus for

major systemic changes is often hard to achieve in the absence of a widespread crisis as many people will want to avoid jeopardizing features from which they perceive benefit. And, consensus is more likely to be built upon existing features than on development of completely new systems. In the case of the health-care system in the United States, changes are likely to have to draw upon the positive experiences of the citizenry with Medicare and/or private employer-based insurance. But, as we have these two very different examples of insurance upon which to draw, the contours of consensus-based reform are not obvious but may require creativity.

Second, the structures through which people reflect together are difficult to pinpoint in a large society. That is, some people will discuss these matters "around the water cooler" at their workplace, in churches or religious organizations, civic groups, and social gatherings, etc. However, there are few obvious and reputable "public squares" or "town halls" in which people are known to think through the common goods. Perhaps the signal problem for contemporary communitarianism is that we no longer live in small communities but live in a large society. It is this lack of identifiable deliberative communities that causes our concern that many will be subject to the propaganda of special interest groups or sensationalist media. Nevertheless, it is an empirical question as to whether this situation is actually problematic.

Communal structures of information gathering and communal reflection may be evolving to fill the void that the lack of geographically based communities creates. Virtual communities seem to grow and dissipate with some rapidity. The recent presidential election was notable for the increased participation of much of the electorate in contributing online. Thus, structures of information gathering, reflection, and participation may be evolving and adapting to our current society. One might expect such developments if we believe that human beings are essentially deliberative animals. Nevertheless, we must not be artificially sanguine about these possibilities but must rely on social scientists to help us understand new means of communal deliberation and ways that a democratic society can encourage and foster such mechanisms.

Conclusion

We have seen the senses in which the philosophical construct of the common morality figures into communitarian thought. The communitarian philosophical anthropology requires that the necessary conditions for communal participation be fostered in society. The common morality can refer to these essential conditions as well as the more contingent values, considered judgments, and shared narrative that persons construct together in their process of mutual self-discovery.

The common morality is important in seeking to create stable social arrangements. We saw in the example of health insurance reform that effective reform will likely need to be built upon the common morality, especially in its more contingent aspect. While arguments made from the universal sense of the common morality may be very philosophically compelling, such arguments are less likely to command

the assent the citizenry than solutions that cohere with the narrative of a people. In this way, communitarianism departs from its deontological counterparts that see morality as implicitly tied to the universal. For the communitarian, much important moral content in ethics and public policy is extremely contingent. What ought to be is often found in together considering what is.

While the communitarian characterizes the person as a deliberative creature, it is folly for the communitarian to insist on active deliberative involvement of each person in each important decision. Much of public policy is based on the common morality and draws on an implicit consensus that can be made explicit by reflective activity. Of course, the communitarian must always be concerned that structures and means for shared reflection be available and fostered by a just society.

In sum, communitarian thought draws heavily upon the two senses of the common morality. But it does not draw upon them simply as theoretical foundations. The communitarian is concerned with the deliberative and reflective processes by which the common morality is discovered, articulated, and refined.

References

1. Kuczewski, M.G. 2004. Communitarianism and bioethics. In *Encyclopedia of bioethics*, 3rd ed., ed. S.G. Post, 477–483. New York: Macmillan Reference USA.
2. Sandel, M.J. 1982. *Liberalism and the limits of justice*. New York: Cambridge University Press.
3. Rawls, John. 1971. *A theory of justice*. Cambridge, MA: Harvard University Press.
4. London, Alex J. 2003. Threats to the common good: Biochemical weapons and human subjects research. *Hastings Center Report* 33: 17–25.
5. MacIntyre, Alasdair. 1984. *After virtue: A study in moral theory*. Notre Dame: Notre Dame University Press.
6. Kuczewski, Mark G. 1997. *Fragmentation and consensus: Communitarian and casuist bioethics*. Washington, DC: Georgetown University Press.
7. 42 US CFR 1395dd.
8. Daniels, Norman. 1986. *Just health care*. New York: Cambridge University Press.
9. Emanuel, Ezekiel J. 1991. *The ends of human life: Medical ethics in a liberal polity*. Cambridge, MA: Harvard University Press.
10. Emanuel, Ezekiel J. 2008. *Healthcare, guaranteed: A simple, secure solution for America*. New York: Public Affairs.
11. Kuczewski, Mark G. 2001. The epistemology of communitarian bioethics: Traditions in the public debates. *Theoretical Medicine and Bioethics* 22: 135–150.
12. Moreno, Jonathan. 1995. *Deciding together: Bioethics and moral consensus*. New York: Oxford University Press.
13. Lake, C.C., R.A. Crittenden, and D. Mermin. 2008. Health care in the 2008 election: Engaging the voters. *Health Affairs* 27: 693–698.
14. McDonough, J.E. 2006. Using and misusing anecdote in policy making. In *Narrative matters*, ed. F. Mullan, E. Ficklen, and K. Rubin, 8–13. Baltimore: Johns Hopkins University Press.